

## Contents

GENERAL INFORMATION .....	5
SITE INFORMATION.....	5
INTRODUCTION.....	6
APPLICANT'S REQUEST.....	6
PROPOSED SITE IMPROVEMENTS.....	6
APPLICABLE CRITERIA.....	7
TDC CHAPTER 36: SUBDIVIDING, PARTITIONING AND PROPERTY LINE ADJUSTMENTS .....	7
SECTION 36.070 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS.....	7
SECTION 36.080 APPROVAL OF STREETS AND WAYS.....	7
SECTION 36.090 ISSUANCE OF BUILDING PERMITS.....	7
TDC CHAPTER 40. LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RL) .....	8
SECTION 40.010 PURPOSE.....	10
SECTION 40.015 PERMITTED DENSITY.....	10
SECTION 40.020 PERMITTED USES.....	10
SECTION 40.050 LOT SIZE FOR PERMITTED USES.....	11
SECTION 40.055 LOT SIZE FOR GREENWAY AND NATURAL AREA TRACTS AND LOTS.....	11
SECTION 40.070 SETBACK REQUIREMENTS FOR PERMITTED USES.....	14
SECTION 40.090 PROJECTIONS INTO REQUIRED YARDS.....	14
SECTION 40.100 STRUCTURE HEIGHT.....	14
SECTION 40.110 ACCESS.....	14
SECTION 40.120 OFF-STREET PARKING AND LOADING.....	16
SECTION 40.130 FLOODPLAIN DISTRICT.....	17
TDC CHAPTER 34: SPECIAL REGULATIONS .....	17
SECTION 34.210 APPLICATION FOR ARCHITECTURAL REVIEW, SUB-DIVISION OR PARTITION REVIEW, OR TREE REMOVAL PERMIT.....	17
SECTION 34.230 CRITERIA.....	18
TDC CHAPTER 71: WETLANDS PROTECTION DISTRICT (WPD) .....	19
SECTION 71.060 ENVIRONMENTAL STANDARDS.....	19
SECTION 71.061 DEVELOPMENT SETBACK .....	19
SECTION 71.062 EXCAVATION AND FILLING.....	19
TDC CHAPTER 72: NATURAL RESOURCE PROTECTION OVERLAY DISTRICT (NRPO) .....	24

SECTION 72.011 CRITERIA FOR DETERMINING SIGNIFICANT NATURAL RESOURCES.....	24
SECTION 72.013 SIGNIFICANT NATURAL RESOURCES. ....	27
SECTION 72.020 LOCATION OF GREENWAYS AND NATURAL AREAS. ....	27
SECTION 72.030 GREENWAYS.....	27
SECTION 72.060 DEVELOPMENT RESTRICTIONS IN GREENWAYS AND NATURAL AREAS. ....	28
SECTION 72.065 HARDSHIP CREATED, MAP ERROR, PROPERTY NOT BUILDABLE.....	30
SECTION 72.070 GENERAL GUIDELINES FOR PEDESTRIAN AND BIKE PATHS IN GREENWAYS. ....	30
SECTION 72.080 SHIFT OF DENSITY FOR RESIDENTIAL DEVELOPMENT ADJACENT TO GREENWAYS OR NATURAL AREAS.....	31
SECTION 72.100 PARKS SYSTEMS DEVELOPMENT CHARGE (SDC) CREDIT. ....	31
SECTION 72.110 EASEMENTS FOR PEDESTRIAN AND BICYCLE ACCESS. ....	31
SECTION 72.120 WETLANDS PROTECTION DISTRICT. ....	31
TDC CHAPTER 73: COMMUNITY DESIGN STANDARDS.....	32
SECTION 73.040 ARCHITECTURAL REVIEW PLAN APPROVAL REQUIRED. ....	32
TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS .....	32
IMPROVEMENTS .....	36
SECTION 74.110 PHASING OF IMPROVEMENTS. ....	37
SECTION 74.120 PUBLIC IMPROVEMENTS.....	37
SECTION 74.130 PRIVATE IMPROVEMENTS.....	37
Section 74.140 Construction Timing .....	37
RIGHT-OF-WAY.....	37
SECTION 74.210 MINIMUM STREET RIGHT-OF-WAY WIDTHS.....	37
EASEMENTS AND TRACTS .....	40
SECTION 74.310 GREENWAY, NATURAL AREA, BIKE, AND PEDESTRIAN PATH DEDICATIONS AND EASEMENTS.....	40
SECTION 74.320 SLOPE EASEMENTS.....	40
SECTION 74.330 UTILITY EASEMENTS.....	40
SECTION 74.340 WATERCOURSE EASEMENTS.....	41
SECTION 74.350 TRACTS. ....	42
TRANSPORTATION .....	42
SECTION 74.410 FUTURE STREET EXTENSIONS.....	42
SECTION 74.420 STREET IMPROVEMENTS.....	43
SECTION 74.425 STREET DESIGN STANDARDS.....	45

SECTION 74.430 STREETS, MODIFICATIONS OF REQUIREMENTS IN CASES OF UNUSUAL CONDITIONS.....	45
SECTION 74.440 STREETS, TRAFFIC STUDY REQUIRED. ....	46
SECTION 74.450 BIKEWAYS AND PEDESTRIAN PATHS.....	47
SECTION 74.460 ACCESSWAYS IN RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SUBDIVISIONS AND PARTITIONS. ....	47
SECTION 74.470 STREET LIGHTS. ....	48
SECTION 74.475 STREET NAMES.....	48
SECTION 74.480 STREET SIGNS. ....	48
SECTION 74.485 STREET TREES.....	49
UTILITIES.....	49
SECTION 74.610 WATER SERVICE. ....	49
SECTION 74.620 SANITARY SEWER SERVICE. ....	50
SECTION 74.630 STORM DRAINAGE SYSTEM.....	50
SECTION 74.640 GRADING.....	51
SECTION 74.650 WATER QUALITY, STORM WATER DETENTION AND EROSION CONTROL. ....	51
SECTION 74.660 UNDERGROUND.....	52
SECTION 74.670 EXISTING STRUCTURES.....	52
SECTION 74.700 REMOVAL, DESTRUCTION OR INJURY OF TREES.....	52
SECTION 74.705 STREET TREE REMOVAL PERMIT. ....	53
SECTION 74.706 STREET TREE FEES. ....	53
SECTION 74.707 STREET TREE VOLUNTARY PLANTING. ....	53
SECTION 74.708 STREET TREE EMERGENCIES.....	53
SECTION 74.710 OPEN GROUND. ....	53
SECTION 74.715 ATTACHMENTS TO TREES. ....	53
SECTION 74.720 PROTECTION OF TREES DURING CONSTRUCTION. ....	53
SECTION 74.725 PROTECTION OF TREES DURING CONSTRUCTION. ....	53
SECTION 74.730 NOTICE OF VIOLATION. ....	53
SECTION 74.735 TRIMMING BY CITY.....	53
SECTION 74.740 PROHIBITED TREES.....	53
SECTION 74.745 CUTTING AND PLANTING SPECIFICATIONS.....	53
SECTION 74.750 REMOVAL OR TREATMENT BY CITY. ....	53
SECTION 74.755 APPEAL OF PERMIT DENIAL. ....	53

SECTION 74.760 PENALTIES. ....	53
SUMMARY AND CONCLUSION .....	53

## **Appendixes**

Appendix A - Land Use Application

Appendix B - Pre-Application Conference Notes

Appendix C - Neighborhood Meeting Documentation

Appendix D – Technical Reports

- Stormwater Report
- Geotechnical Report
- Arborist Report
- CWS Site Assessment

Appendix E – Land Use Plan Set

Appendix F – Supplementary Figures & Exhibits

## GENERAL INFORMATION

Applicant:	<b>Lennar Northwest</b> Attn: Michael Loomis 11807 NE 99 <sup>th</sup> Street, Suite 1170 Vancouver, WA 98682 Phone: 360-258-7882 Email: mike.loomis@lennar.com
Owner:	<b>Sagert Family, LLC</b> Attn: John Pinkstaff, Esq. Lane Powell, PC 601 SW Second Avenue, Suite 2100 Portland, OR 97204 Phone: 503-778-2186 Email: pinstaffj@lanepowell.com
Applicant's Representative	<b>3J Consulting, Inc</b> 5075 SW Griffith Drive, Suite 150 Beaverton, OR 97005 Contact: Andrew Tull Phone: 503-545-1907 Email: andrew.tull@3j-consulting.com
Contributing Consultant Contact Details:	<b>Land Use Planning and Civil Engineering</b> 3J Consulting, Inc. 5075 SW Griffith Drive, Suite 150 Beaverton, OR 97005 Contact: John Howorth Phone: 503-946-9365 Email: john.howorth@3j-consulting.com

## SITE INFORMATION

Tax Lot Number:	21E30B 00300 & 00600
Address:	20130 SW 65 <sup>TH</sup> Avenue
Size:	20.90 acres
Zoning Designation:	Low Density Residential (RL)
Neighborhood:	East Tualatin CIO
Comprehensive Plan:	Low Density Residential
Existing Use:	Single Family Residential
Street Functional	SW Sagert Street (East of SW 65 <sup>th</sup> Avenue) – Minor Collector

Classifications:	SW Sagert Street (West of SW 65 <sup>th</sup> Avenue) – Minor Arterial
	SW 65 <sup>th</sup> Avenue – Major Arterial
	SW Borland Road – Major Arterial
Surrounding Zoning:	East and West – Low Density Residential (RL)
	North – Commercial Office (CO) and Medical Commercial (MC)
	South – Clackamas County Zoning

## INTRODUCTION

### APPLICANT'S REQUEST

The Applicant seeks approval of an application for Subdivision Preliminary Plat for the development of 79 residential lots. This narrative describes the proposed subdivision of the site and documents compliance with the relevant sections of the City of Tualatin's Development Code ("TDC").

### PROPOSED SITE IMPROVEMENTS

The project site consists of a total of 20.90 acres. The proposed development site is located east of SW 65th Avenue, south of SW Borland Road, and north of Saum Creek and the I-205 corridor. The site is bounded to the east by the Sequoia Ridge subdivision. The site's northern boundary is formed by two separate professional medical office buildings, a PGE substation, and SW Borland Road. The site is bounded by Saum Creek and Interstate 205 to the south. There currently sits a single-family detached home with a wooden barn near the center of the property.

The proposed residential subdivision includes the extension of SW Sagert Street (east of SW 65<sup>th</sup> Avenue). The site slopes downward towards the south. A substantial area in the southern portion of the site is designated with a Significant Natural Resource Overlay and will be preserved in a tract.

The intent of this subdivision is to provide seventy-nine (79) buildable lots, for development with single-family homes, a use permitted outright in the RL zone.

## APPLICABLE CRITERIA

The following sections of the Tualatin Development Code (TDC) have been extracted as they have been deemed to be applicable to the proposal. Following each applicable criteria or design standard, the Applicant has provided a series of draft findings. The intent of providing code and detailed responses and findings is to document that the proposed development has satisfied the approval criteria for a Subdivision Preliminary Plat.

### TDC CHAPTER 36. SUBDIVIDING, PARTITIONING AND PROPERTY LINE ADJUSTMENTS

#### SECTION 36.070 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS.

- (1) All land divisions shall be created by a subdivision or partition plat and must comply with ORS Chapter 92 and this Chapter.

**Applicant's Finding:** This narrative, along with drawings and other exhibits, have been provided as evidence demonstrating that the proposed development complies with the applicable regulations of the City of Tualatin and ORS Chapter 92. This land division is proposed to be created by a subdivision complying with all applicable standards.

The requirements of this section have been satisfied.

#### SECTION 36.080 APPROVAL OF STREETS AND WAYS.

- (1) The subdivision or partition plat shall provide for the dedication of all public rights-of-way, reserve strips, easements, tracts and accessways, together with public improvements therein approved and accepted for public use.
- (a) The applicant shall comply with the requirements of TDC Chapter 74, Public Improvement Requirements.
- (b) The applicant shall comply with the design and construction standards set forth in the Public Works Construction Code.
- (c) The applicant shall provide evidence to the City that property intended to be dedicated to the public is free of all liens, encumbrances, claims and encroachments.
- (2) The subdivision or partition plat shall indicate the ownership and location of private easements and tracts, and the owner-ship and location of private improvements within public rights-of-way and easements.
- (3) Approval of the subdivision or partition plat by the City shall constitute acceptance of all public rights-of-way, reserve strips, easements, tracts and accessways shown thereon, as well as public facilities located therein.

**Applicant's Finding:** This application has been submitted for preliminary plat approval. It is meant to illustrate proposed right-of-way dedication, construction of utilities and streets, and other improvements necessary to satisfy Tualatin Development Code requirements. All required improvements will be completed in conjunction with the final subdivision plat process.

The requirements of this section have been satisfied.

#### SECTION 36.090 ISSUANCE OF BUILDING PERMITS.

- (1) Except as provided in subsection (5) of this section no building permit or permits to connect to City utility services shall be is-sued for lots within a subdivision or partition plat until the City Engineer has

determined that the corresponding public improvements are substantially complete to assure that the health and safety of the citizens will not be endangered from inadequate public facilities.

- (2) Subject to submittal and approval of, and compliance with, the subdivision plan, as well as sufficient security to assure completion of the public portions of the subdivision, the applicant or individual lot owners within the subdivision may receive a building permit or utility service for not more than 50 percent of the platted lots within the subdivision prior to:
  - (a) the completion of all required public improvements in accordance with the Public Works Construction Code; and
  - (b) the acceptance of the public improvements by resolution of the City Council.
- (3) No building permits shall be issued or utility service approved for any lot which together with previously approved lots would exceed 50 percent of the platted lots within the subdivision until:
  - (a) all required public improvements have been completed in accordance with the Public Works Construction Code; and
  - (b) the public improvements have been accepted by resolution of the City Council.
- (4) City approval for use of a public improvement prior to the final approval and acceptance by the City of the subdivision plat shall not be construed as a release or waiver of any security which has been filed to assure compliance with the subdivision plan approval or any related agreements.
- (5) For a subdivision or partition in commercial, institutional, or manufacturing planning districts or multi-family residential developments which require Architectural Review approval, the City Engineer may authorize building permits to be issued prior to the public improvements being substantially complete provided the following conditions are satisfied:
  - (a) A Public Works Permit for the public improvements has been issued;
  - (b) An Architectural Review for the development has been approved;
  - (c) The subdivision or partition plat is recorded;
  - (d) All easements and dedications required of any development approval have been recorded; and
  - (e) Such building permits are conditioned to deny occupancy until the public improvements in the subdivision are complete and are accepted by resolution of the City Council.

**Applicant's Finding:** The Applicant will comply with all requirements necessary to obtain building permits. Upon receiving a substantially complete status, the Applicant may request a number of building permits in order to initiate the construction of a series of two to four model homes.

The requirements of this section have been satisfied.

#### **Section 36.120 Applications and Filing Fee.**

- (1) A request for a Subdivision shall be subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.
- (2) The applicant shall discuss the preliminary plans with the City Engineer in a pre-application conference prior to submitting an application. An applicant for a subdivision shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall prepare and submit a City of Tualatin development application, available from the City Engineer.

**Applicant's Finding:** On February 28, 2015, the applicant held a general neighborhood meeting to discuss the proposed subdivision with property owners in the surrounding area. Approximately 50



neighbors and other interested persons were in attendance. The notes from that meeting are attached to this narrative. (See Appendix C). In general, the concerns were the proposed density, the plans for the historic barn located on the property, and the roadway and access pattern. Cut-through traffic was expressed as a concern by the existing subdivision to the east. The applicant has worked hard to incorporate those concerns into this final application. For example, Sagert street has been narrowed as it progresses east through the site to better fit with the residential character of the surrounding area and to mitigate cut-through traffic. A center median with plantings has also been provided along the project's eastern access point and an all-way stop has been proposed at intersection with 61st Terrace. At that neighborhood meeting, the applicant also heard localized concerns from the property owners associated with the Tualatin Professional Condominium ("TPC"). The TPC development is located east of SW 65th Avenue, south of Borland Road and north of the Sagert Street extension. Specifically, TPC was concerned about the impact the extension of Sagert Street would have on its parking and circulation improvements that are currently encroaching into the Sagert Street right-of-way. Over a period of approximately ten months, the applicant met twice with representatives of TPC and had numerous other communications with TPC in order to determine how the impact of the Sagert Street extension could best be mitigated while still meeting engineering requirements for the road extension. According to a 1984 agreement between the City and the original developer of the TPC property, the City allowed the developer to dedicate the Sagert Street extension right-of-way, but not actually build its half street improvement. (See Appendix F). Instead the developer paid a fee-in-lieu. The agreement also allowed the developer to encroach into the Sagert Street right-of-way with driveway improvements but the developer specifically agreed "that the driveway improvements to S.W. Sagert Street are temporary in nature" and the developer "agree[d] to maintain said driveway at his expense." (See Appendix F, Section 11.)

Even though the developer agreed to the temporary nature of the driveway improvements, and even though any subsequent purchaser of that property was put on notice from the 1984 recorded agreement that the driveway improvements were temporary, the applicant worked extensively with TPC to explore a number of options to mitigate the impact on the TPC property of removing the driveway improvements within the right-of-way. Some of the options were offered by TPC, while others were offered by the applicant, but in all cases the applicant paid its consultants to evaluate the feasibility of those options against applicable engineering and safety standards and requirements. Unfortunately, no option was both feasible and acceptable to TPC. Because no agreement could be reached, the applicant mitigated the impact on the TPC property as much as it independently could while still complying with applicable standards for the street extension. Specifically, the applicant pushed the Sagert Street extension south, onto its own property, as much as possible while still ensuring that the street lined up in a safe way with the existing Sagert Street right-of-way on the west side of SW 65th Avenue. This ensured that as little of the TPC property as possible would be impacted.

## **TDC CHAPTER 40. LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RL)**

### **SECTION 40.010 PURPOSE.**

The purpose of this district is to provide low density residential areas in the City that are appropriate for dwellings on individual lots, as well as other miscellaneous land uses compatible with a low density residential environment.

**Applicant's Finding:** The Applicant is proposing the subdivision of the subject property to provide low density residential lots for single family dwellings.

The requirements of this section have been satisfied.

### **SECTION 40.015 PERMITTED DENSITY.**

Housing density shall not exceed 6.4 units per net acre, except as set forth below:

(1) The maximum density for small-lot subdivisions, and partitions and subdivisions affected by TDC 40.055, shall not exceed 7.5 dwelling units per net acre.

**Applicant's Finding:** The southern portion of the subject site has been identified as a Greenway Protected in the NRPO per The City of Tualatin Map 72-1: Natural Resources Protection Overlay District (NRPO) and Greenway Locations. Per the requirements of TDC 40.055 the proposed Greenway has been located wholly within a tract. The proposed subdivision is affected by TDC 40.055, therefore the maximum density of the site is 7.5 dwelling units per acre.

The net acreage of the site (after the removal of the right-of-way, greenway tract, CWS vegetative corridor tract, and water quality tract) is 11.4 acres. The proposed 79 dwelling units result in a density of 7.0 dwelling units per net residential acre which is below the maximum of 7.5 dwelling units per acre.

The requirements of this section have been satisfied.

### **SECTION 40.020 PERMITTED USES.**

- (1) Single-family dwellings, including manufactured homes.
- (2) Agricultural uses of land, such as truck gardening, horticulture, but excluding commercial buildings or structures and excluding the raising of animals other than normal household pets.
- (3) Home occupations as provided in TDC 34.030 to 34.050.
- (4) Public transit shelters.
- (5) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.
- (6) Residential homes.
- (7) Residential facilities for up to 15 residents, not including staff.
- (8) Family day care provider, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.
- (9) Sewer and water pump stations and pressure reading stations.

- (10) Wireless communication facility attached, provided it is not on a single-family dwelling or its accessory structures.
- (11) Accessory dwelling units as provided in TDC 34.300 to 34.310.
- (12) Transportation facilities and improvements.
- (13) Public park, public playground, and public recreation building

**Applicant's** The proposed single-family dwellings are permitted outright in the RL zone.

**Finding:**

The requirements of this section have been satisfied.

#### **SECTION 40.050 LOT SIZE FOR PERMITTED USES.**

Except as otherwise provided, the lot size for a single-family dwelling shall be:

- (1) The minimum lot area shall be an average of 6,500 square feet.
- (2) The average lot width shall be at least 30 feet.
- (3) When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.
- (4) The maximum building coverage shall be 45 percent.
- (5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(7) - (12).

**Applicant's** The proposed lots range in size from 5,000 square feet to 9,012 square feet. With the  
**Finding:** removal of 16 small lots from the average lot size calculation (per Section 40.055 below), the overall average lot area is 6,502 square feet, which exceeds the minimum of 6,500 square feet per the requirements of subsection (1).

All lots exceed the 30-foot minimum average width in subsection (2).

All lots will have frontage on a public street and will meet the minimum width requirement of subsection (3) of 50 feet on a street and 30 feet around a cul-de-sac bulb.

The homes will meet the lot coverage standard of subsection (4). No more than 45% of any lot will be covered with buildings. This can be verified at time of building permit submission.

The Applicant is not proposing flag lots as a part of this subdivision, therefore the requirements of subsection (5) are not applicable. Lot 1 and Lot 2 will have frontage on Borland Road, but will be accessed by a shared access drive located off of SW 61<sup>st</sup> Terrace, a proposed local street. The proposed shared access drive will meet the minimum access requirements contained in TDC 73.400(7)-(12).

The requirements of this section have been satisfied.

#### **SECTION 40.055 LOT SIZE FOR GREENWAY AND NATURAL AREA TRACTS AND LOTS.**

- (1) The decision authority for partitions and subdivisions may allow one small lot for each 6,500 square feet of Tract created in the subdivision or partition process, provided the following criteria are met:
  - (a) Each Tract must be:

- (i) wholly in the Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72), or
- (ii) wholly in an Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan, or
- (iii) wholly in a Clean Water Services Vegetated Corridor.
- (b) The ownership of each Tract must be one of the following:
  - (i) dedicated to the City at the City's option, or
  - (ii) dedicated in a manner approved by the City to a non-profit conservation organization, or
  - (iii) retained in private ownership by the developer.
- (c) The small lot:
  - (i) Shall be no less than 5,000 square feet and no more than 5,999.99 square feet.
  - (ii) The average lot width shall be at least 30 feet.
  - (iii) The minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.
  - (iv) The maximum building coverage for lots less than 6,000 square feet shall be 45 percent.
  - (v) The subdivision's or partition's density, net of the Tracts, shall not exceed 7.5 dwelling units per acre.

**Applicant's  
Finding:**

The Applicant has proposed a 2.91 acre (127,076 square feet) tract which is wholly in the Natural Resource Overlay District. The Applicant has additionally proposed a 0.96 acre (41,897 square feet) tract for the purpose of the Saum Creek Greenway Trail. The two proposed tracts are to be dedicated to the City at the City's option. Given the 168,973 square foot tract dedication, the Applicant is allowed 25 total small lots (168,973 square feet/6,500 square feet = 25.99 lots).

The Applicant has provided 16 small lots with a minimum square footage of 5,000 square feet and a maximum of 5,999.99 square feet. The average width of the proposed lots will meet the minimum average width of 30 feet. All proposed lots will have street frontage and will meet the minimum frontage requirement of 50 feet on a street and 30 feet around a cul-de-sac bulb. The maximum building coverage will not exceed 45 percent.

The lots proposed for the small lot allowance are lots 10, 33, 36, 41-43, 47-53 and 63-65.

The proposed 79 dwelling units result in a density of 7.0 dwelling units per net residential acre which is below the maximum of 7.5 dwelling units per acre.

The requirements of this section have been satisfied.

- (2) The decision authority for partitions and subdivisions shall consider, but is not limited to, the following factors when determining if TDC 40.055(1)(b)(i - iii) are allowed:
- (a) Does the Park and Recreation Master Plan designate the Tract for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
  - (b) Does the Tract include one or more designated Heritage Trees, or one or more significant trees;
  - (c) Does the Tract provide a significant view or aesthetic element, or does it include a unique or intrinsically valuable element;

- (d) Does the Tract connect publicly owned or publicly accessible properties;
- (e) Does the Tract abut an existing park, greenway, natural area or other public facility;
- (f) Does the Tract provide a public benefit or serve a public need;
- (g) Does the Tract contain environmental hazards;
- (h) Geologic stability of the Tract; and
- (i) Future maintenance costs for the Tract.

**Applicant's Finding:** The Park and Recreation Master Plan designates the area shown as Tract A as a greenway per subsection (a).

The Park and Recreation Master Plan designates the area shown as Tract B as a pedestrian path per subsection (a).

The applicant understands that based on the criteria of this section, ownership of Tracts A and B shall be determined by the City.

The requirements of this section have been satisfied.

**(3) The following shall apply to small lots included in a partition or subdivision pursuant to (1) above:**

- (a) When a small lot abuts an existing lot in an approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the abutting lot. For example, a new small lot shall be no less than 5,500 square feet if it abuts an existing lot of 6,000 square feet; 5,600 square feet if it abuts an existing lot of 6,100 square feet; 5,700 square feet if it abuts an existing lot of 6,200 square feet; and so on, up to 5,999 square feet if it abuts an existing lot of 6,499 square feet.
- (b) When a small lot is directly across a local street from an existing lot in a City approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the lot directly across the street. For purposes of this section, a small lot is directly across the street if one or more of its lot lines, when extended in a straight line across the local street, intersect the property line of the lot across the street.
- (c) When a Tract or easement is between a small lot and an existing lot in a City approved and recorded subdivision or partition the small lot shall be separated from the existing lot by at least 50 feet.
- (d) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase.

**Applicant's Finding:** The Applicant is not proposing to locate any small lots abutting an existing lot in an approved or recorded subdivision or partition per subsection (a).

The Applicant is not proposing to locate any small lots directly across a local street from an existing lot in a City approved and recorded subdivision or partition per subsection (b).

The Applicant is not proposing to locate a tract or easement between any small lots and a City approved and recorded subdivision or partition per subsection (c)

The Applicant is not proposing a phased construction of the proposed subdivision (d).

The requirements of this section have been satisfied.

**SECTION 40.070 SETBACK REQUIREMENTS FOR PERMITTED USES.**

Except as otherwise provided, the setbacks for permitted uses shall be:

- (1) The front yard setback shall be a minimum of 15 feet, except to an unenclosed porch, which shall be 12 feet.
- (2) The setback to a garage door shall be a minimum of 20 feet.
- (3) The side yard setback shall be a minimum of five feet.
- (4) For a corner lot, the following provisions shall apply:
  - (a) one front yard setback shall be a minimum of 15 feet; it shall be determined by the orientation of the structure based on the location of the front door.
  - (b) the second front yard setback shall be a minimum of 10 feet.
- (5) The rear yard setback shall be a minimum of 15 feet

**Applicant's** All setback standards will be met at the time of building permit submittal.

**Finding:**

The requirements of this section have been satisfied.

**SECTION 40.090 PROJECTIONS INTO REQUIRED YARDS.**

Cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may extend or project into a required front or rear yard setback area not more than three feet and into a required side yard not more than two feet, or into the required open space as established by coverage standards in this chapter.

**Applicant's** Future construction of dwellings on the proposed lots will be required to comply with

**Finding:** the provisions of this Section.

The requirements of this section have been satisfied.

**SECTION 40.100 STRUCTURE HEIGHT.**

Except as otherwise provided, the maximum structure height is 35 feet.

**Applicant's** Future construction of dwellings on the proposed lots will be required to comply with

**Finding:** the provisions of this Section.

The requirements of this section have been satisfied.

**SECTION 40.110 ACCESS.**

Refer to TDC 36.470 [see applicant's response statement above] and 73.400.

**SECTION 73.400 ACCESS. [Subsections applicable to single-family residential development]**

- (8) To afford safe pedestrian access and egress for properties within the City, a sidewalk shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design and in a manner approved by the City Engineer. Sidewalks approved by the City Engineer may include temporary sidewalks and sidewalks constructed on private

property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.

**Applicant's  
Finding:**

The City Engineer has reviewed the proposal and made recommendations to the Applicant, which are incorporated into the proposed pedestrian access configuration. The Applicant is proposing to construct sidewalks along all street frontage in accordance with the recommendations of the City Engineer and the requirements of the City, as shown on the included plans.

The requirements of this section have been satisfied.

**(10) Minimum access requirements for residential uses:**

- (a) Ingress and egress for single-family residential uses, including townhouses, shall be paved to a minimum width of 10 feet. Maximum driveway widths shall not exceed 26 feet for one and two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths shall be measured at the property line.**

**Applicant's  
Finding:**

All of the proposed lots are wide enough to accommodate homes with two-car garages and driveways meeting these dimensional requirements.

The requirements of this section have been satisfied.

**(15) Distance between Driveways and Intersections.**

Except for single-family dwellings, the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection.

- (a) At the intersection of collector or arterial streets, driveways shall be located a minimum of 150 feet from the intersection.**
- (b) At the intersection of two local streets, driveways shall be located a minimum of 30 feet from the intersection.**
- (c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line as required by TDC 73.400(14)(b).**
- (d) When considering a public facilities plan that has been submitted as part of an Architectural Review plan in accordance with TDC 31.071(6), the City Engineer may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision. The written approval shall be incorporated into the decision of the City Engineer for the utility facilities portion of the Architectural Review plan under the process set forth in TDC 31.071 through 31.077.**

**Applicant's Finding:** The Applicant is proposing a subdivision consisting of single-family residential development, therefore the standards of this section do not apply to the proposed single-family residential driveways.

The requirements of this section have been satisfied.

**(16) Vision Clearance Area.**

- (a) **Local Streets** - A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 10 feet from the intersection point of the right-of-way lines, as measured along such lines (see [Figure 73-2](#) for illustration).
- (b) **Collector Streets** - A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area shall be 10 feet (see [Figure 73-2](#) for illustration).
- (c) **Vertical Height Restriction** - Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction shall be permitted between 30 inches and 8 feet above the established height of the curb in the clear vision area (see [Figure 73-2](#) for illustration).

**Applicant's Finding:** The Applicant has illustrated the required vision clearance area triangle for each proposed intersection on the submitted plans and Figure 1 and Figure 2 submitted under Appendix F. All required vision clearance areas will be maintained.

The requirements of this section have been satisfied.

**SECTION 40.120 OFF-STREET PARKING AND LOADING.**

Refer to [TDC Chapter 73](#).

**SECTION 73.370(2) OFF-STREET PARKING AND LOADING.**

USE	MINIMUM MOTOR VEHICLE PARKING REQUIREMENT	MAXIMUM MOTOR VEHICLE PARKING REQUIREMENT	BICYCLE PARKING REQUIREMENT	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
<u>Residential Uses:</u>				
(i) Detached single-family dwelling, residential home, residential facilities (located in low density (RL) planning districts) Townhouse	2.00 vehicle parking spaces per dwelling unit, residential home or residential facility (stalls or spaces within a residential garage not included, except as approved in Architectural Review).	None	None Required	N/A



**Applicant's** A minimum of 2.0 off street vehicle spaces will be provided for each residential home.  
**Finding:** All off-street parking standards will be met when specific building plans are submitted at the time of building permit submittal.

The requirements of this section have been satisfied.

#### **SECTION 40.130 FLOODPLAIN DISTRICT.**

Refer to TDC Chapter 70.

**Applicant's** Per FEMA AND CWS mapping, the site does not lie within a 100 year flood plain.  
**Finding:**

The requirements of this section have been satisfied.

### **TDC CHAPTER 34: SPECIAL REGULATIONS**

#### **SECTION 34.210 APPLICATION FOR ARCHITECTURAL REVIEW, SUB-DIVISION OR PARTITION REVIEW, OR TREE REMOVAL PERMIT.**

(1) Architectural Review, Subdivision, or Partition. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), to develop property, and the development is subject to Architectural Review, Subdivision Review, or Partition Review approval, the property owner shall apply for approval to remove trees as part of the Architectural Review, Subdivision Review, or Partition Review application process.

(a) The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; existing and proposed property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number). All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

- (A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and
- (B) Where CWS has approved delineation of a "sensitive area" or "vegetated corridor" on the subject property, and
- (C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then
- (D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the

development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist's signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year proceeding the date the development application is deemed complete by the City. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

- (iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located in the CWS-required easement need not be tagged.
  - (b) The application for tree removal shall be approved or denied based on the criteria in TDC 34.230.
  - (c) The approval or denial of an application to remove trees shall be a part of the Architectural Review, Subdivision Review, or Partition Review decision.
- (2) Existing Single-Family Dwelling.  
[not applicable; detailed provisions omitted for brevity]
- (3) Other. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), for reasons other than those identified in TDC 34.210(1) and (2), the property owner shall apply for a Tree Removal Permit as follows:  
[not applicable; detailed provisions omitted for brevity]

**Applicant's Finding:** The Tree Protection and Removal Plan (Sheet C105-C109) identifies the locations of all trees on site eight inches or more in diameter. The CWS required easement boundary has been identified on the tree plan. Trees proposed for removal have also been identified. A tree assessment has been prepared and provided with this application.

The requirements of this section have been satisfied.

#### SECTION 34.230 CRITERIA

The Community Development Director shall consider the following criteria when approving, approving with conditions, or denying a request to cut trees.

- (1) An applicant must satisfactorily demonstrate that any of the following criteria are met:
  - (a) The tree is diseased, and
    - (i) The disease threatens the structural integrity of the tree; or
    - (ii) The disease permanently and severely diminishes the esthetic value of the tree; or
    - (iii) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.
  - b) The tree represents a hazard which may include but not be limited to:
    - (i) The tree is in danger of falling;
    - (ii) Substantial portions of the tree are in danger of falling.
  - (c) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.
- (2) If none of the conditions in TDC 34.240(1) are met, the Community Development Director shall evaluate the condition of each tree based on the following criteria. A tree given a rating of one on a factor will not be required to be retained.

**Applicant's Finding:** The trees that are being proposed for removal as a part of this Subdivision Review are being removed to accommodate the construction of the proposed improvements for the subdivision plan. All tree removal is detailed in the included Arborist's report, as well as sheets C105 through C109. All proposed tree removal is necessary to construct the proposed improvements associated with the subdivision.

The requirements of this section have been satisfied.

## **TDC CHAPTER 71: WETLANDS PROTECTION DISTRICT (WPD)**

### **SECTION 71.060 ENVIRONMENTAL STANDARDS**

**All construction or development, including excavation or filling, or the use of any land within the Wetlands Protection District (WPD), shall conform to the environmental standards required by TDC 71.061 to 71.066.**

**Applicant's Finding:** All construction within the WPD will conform to environmental standards required by the applicable standards, as detailed further in this report.

The requirements of this section have been satisfied.

### **SECTION 71.061 DEVELOPMENT SETBACK**

- (1) Except as otherwise provided for herein, all permanent surface structures and other surface improvements located adjacent to the Wetlands Protected Area (WPA) shall be set back not less than 40 feet from the boundary of the Wetlands Protected Area (WPA) established in accordance with the provisions of this chapter.**
- (2) Where buildings or other surface structures are placed on or immediately adjacent to the outer edge of the setback area, and where means of emergency access or egress is required to be furnished to or from the sides of such buildings or structures that adjoin or face the Wetlands Protected Area (WPA), such means of access or egress may be provided within the setback area.**
- (3) Except as otherwise provided herein or in the Resource Management Plan, no setback for permanent surface structures and other surface improvements is required from the boundary of the Sweek Pond Management Area (SPMA).**

**Applicant's Finding:** The site has an established vegetative corridor which has been reviewed by Clean Water Services (CWS). As the CWS buffer is wider than the required WPA boundary, all permanent surface structures will be set back 40 feet from the WPA.

The requirements of this section have been satisfied.

### **SECTION 71.062 EXCAVATION AND FILLING**

**Excavation, filling and earth-moving activities are permitted within the Wetlands Protection District (WPD), subject to the following restrictions:**

- (1) Within the Wetlands Protected Area (WPA), temporary dredging, filling, de-watering or other activities may be undertaken in order to place, install, service or maintain utilities or similar improvements within or across the area only during such periods and in such manner as to reduce as much as reasonably practicable the significant detrimental effects, if any, such activities may have on wildlife within, or on the hydrological integrity of the area.**

- (2) Within the Wetlands Fringe Area (WFA), excavation and filling shall be allowed in all areas for purposes related to its full development and use in accordance with applicable primary planning district classifications and for purposes of increasing or decreasing the elevations within such area to, or in excess of, the level of the so-called "100-year flood plain"; provided, however:
- (a) Excavation or filling in the Wetlands Fringe Area (WFA) shall not, when completed, result in significant increase or decrease in the volume of surface water that will thereafter flow or discharge into the Wetlands Protected Area (WPA) from the Wetlands Fringe Area (WFA).
  - (b) All excavation, filling or other earth-moving activities within the Wetlands Fringe Area (WFA) shall be conducted in such a manner that erosion and silting of surface water runoff into the Wetlands Protected Area (WPA) will not take place. Where upland areas are exposed and subject to erosion due to such excavation, filling or other earth-moving activities, temporary grass cover or other soil stabilizing vegetation shall be established immediately upon completion of such activities if such exposure and erosion will result in erosion or siltation of any portion of the Wetlands Protected Area (WPA).
- (3) Where necessary or desired in order to fully utilize all land lying in the Wetlands Fringe Area (WFA), or for the purpose of the installation or maintenance of subsurface improvements located thereon, fill, excavation or other earth-moving activities shall be permitted within the setback area above described; provided that, upon completion of such activities, the profile of the setback area shall conform with the characteristics of a "Type A" or "Type B" development setback, as depicted by Figure 71-1.
- (a) Fill materials placed in the setback area shall consist of topsoil of suitable nature and character to allow re-vegetation in accordance with the provisions of TDC 71.064, or, in the alternative, where topsoil is not utilized for purposes of fill, the materials that are utilized as fill shall be covered with topsoil to a depth of at least 12 inches where the underlying fill material is heavily compacted.
  - (b) Quatoma, Woodburn or Hillsboro loam, when identified within the setback area or upon adjacent land inside the Wetlands Fringe Area (WFA) by the U.S. Soil Conservation Service or by other reliable means, shall be suitable in nature and character to serve as topsoil for purposes of allowing re-vegetation of soil surfaces altered by filling, excavation or other earth-moving activities undertaken within the setback area, or elsewhere within the Wetlands Fringe Area (WFA) in accordance with the requirements of the provisions of TDC 71.064. Where other types of soils or materials are proposed for use as topsoil in accordance with this subsection, the same shall be of a type and character that will promote rapid propagation and growth of vegetation which will provide food, cover and nesting areas for wildlife, as well as a visual barrier or screen between the Wetlands Protected Area (WPA) and adjacent uplands.
  - (c) Cove clay and silty clay loam shall not be used for purposes of providing any topsoil cover required to be placed within the setback area after filling, excavation or other earth-moving activities.
  - (d) Placement of landfill and topsoil within the setback area should be accomplished before September 15 in order to provide adequate opportunity for re-vegetation to occur during the ensuing growing season. Pending permanent re-vegetation in accordance with the requirements of TDC 71.064, filled areas within the setback area should be planted with temporary grass cover, winter cereal grains (broadcast at a rate of not less than 100 pounds per acre), or other soil-stabilizing vegetation for fast and effective control of any erosion or siltation that will occur in the Wetlands Protected Area (WPA) if stabilization is not effected in such areas.
- (4) Within the Sweek Pond Management Area (SPMA) filling, de-watering or other activities may be undertaken in order to place, install, service or maintain utilities or similar improvements, subject to the Resource Management Plan. The work will be accomplished in such manner as to reduce as much as reasonably practicable the significant detrimental effects, if any, such activities may have on wildlife within, or on the hydrological integrity of the area.

**Applicant's Finding:** Any excavation, filling or earth-moving activities within the Wetlands Protection District will expressly follow the requirements of this section. This will be further reviewed with grading and erosion control permits, construction improvement permits, and on-site inspection throughout the construction process.

The requirements of this section have been satisfied.

#### **SECTION 71.063 CONTAMINATION AND SEDIMENTATION**

During the course of development, site preparation, construction of any improvements, or usage of lands lying within the Wetlands Fringe Area (WFA) or the Sweek Pond Management Area (SPMA), the introduction of storm drainage, surface and roof runoff into the Wetlands Protection Area (WPA) and the Sweek Pond Management Area (SPMA) shall only occur when such runoff is substantially free of silt, debris, oil or other materials injurious to plants or wildlife in the Wetlands Protected Area and the Sweek Pond Management Area (WPA and SPMA).

- (1) All apparent and potential sources of storm drainage and surface runoff contamination located within the Wetlands Fringe Area (WFA) and the Sweek Pond Management Area (SPMA) such as operating areas, and equipment cleaning and maintenance area, shall have curbs and be drained into impoundment areas or a waste treatment system in such a manner that no contaminated storm drainage or surface runoff originating in such areas will be discharged directly into the Wetlands Protected Area (WPA) or Sweek Pond Management Area (SPMA) without treatment that would render such drainage uncontaminated.
- (2) No solid wastes that are known to be toxic to vegetation or wildlife within the Wetlands Protected Area (WPA) and the Sweek Pond Management Area (SPMA) shall be permanently stored or disposed of within the Wetlands Fringe Area (WFA) or Sweek Pond Management Area (SPMA).
- (3) No pesticides shall be used in the Wetlands Protected District before the type, duration and manner of use have been approved by the Oregon Department of Environmental Quality.
- (4) To prevent soil movement into, or erosion within, the Wetlands Protected Area and the Sweek Pond Management Area (WPA and SPMA) as a result of drainage from adjacent upland areas within the Wetlands Fringe Area (WFA) and Sweek Pond Management Area (SPMA) during the course of development, site preparation, construction of improvements or use, a combination of filters or diversions or other appropriate means to be specified by an engineer shall be employed where necessary in order to supplement soils stabilization that will result from re-vegetation as otherwise provided for and described in TDC 71.062(2) and 71.064

**Applicant's Finding:** All standards required to prevent contamination or sedimentation in the WPA will be followed throughout construction of the development. No contamination or sedimentation is proposed or anticipated. This will be further reviewed with the grading and erosion control permit and inspections of the site throughout construction.

The requirements of this section have been satisfied.

#### **SECTION 71.064 VEGETATION**

- (1) Vegetation occurring within the Wet-lands Protected Area (WPA) and the Sweek Pond Management Area (SPMA) shall not be degraded or damaged except as a result of activities otherwise permitted by this chapter.

- (2) Vegetation occurring within the Wetlands Fringe Area (WFA) may be removed or altered at any time during the course of development, site preparation, construction of improvements or usage, when reasonably required for any of such purposes, subject to the following:
- (a) Areas where vegetation has been removed or altered incidental to construction or development of land areas within the Wetlands Fringe Area (WFA) lying outside the setback area, which are not otherwise committed and used as the location or site of surface improvements associated with the development or use of the property, shall be seeded or planted to reestablish a vegetation cover compatible with the adjacent wetland habitats insofar as practicable.
  - (b) Areas where vegetation has been removed or altered incidental to development or usage of land areas within the Wetlands Fringe Area (WFA) which occurs by reason of filling, excavation or other activities undertaken within the setback areas, shall be seeded or planted so as to effect eventual reestablishment of vegetation, if practicable, of the character, type and density that occurred in the areas affected prior to such removal or alteration.
  - (c) Owners and occupiers of land lying within the setback area upon which vegetation has been disturbed as a result of development, site preparation, construction of improvements or use shall permit access to such areas by public agencies, resource management groups and environmental interest groups approved by the City for purposes of entry and the conduct of activities designed or intended to effect the seeding, planting and maintenance of vegetation within the setback area in addition to, or in lieu of, the vegetation to be placed therein in accordance with TDC 71.064(2)(b) in the nature of trees, shrubs or other vegetation forms that will provide food, cover and nesting areas for wildlife and which may also provide a visual barrier or screen between the boundary of the Wetlands Protected Area (WPA) and adjacent upland areas. No such activity shall be authorized or permitted where the same or the effects thereof may materially impair or damage the structural integrity or usefulness of landfill occurring within such area, or which may enhance the area's susceptibility to erosion or damaging surface or subsurface water flow, or which may damage, or impair the usefulness of, utilities or other improvements lying within or adjacent to the area otherwise permitted under the terms of this chapter.
  - (d) Re-vegetation as required by the provisions of this section shall begin as soon as practicable, but in no event later than 60 days, after cessation of development, unless otherwise approved by the City. Such re-vegetation shall be deemed to comply with the requirements of this chapter if approved or recommended as to type, species and placement by either the U.S. Soil Conservation Service or the Oregon Department of Fish and Wildlife.
- (3) Land areas within the Wetlands Fringe Area (WFA) that lie outside the 40-foot setback area and which are not otherwise committed to development or use in connection with the intended development or use to be made of such areas by the owners, developers or occupiers thereof, shall be left, insofar as practicable, in their natural state for so long as such development or use does not require their alteration. Subject to the limitations set forth in TDC 71.064(2)(c), access shall be afforded to public agencies, resource management groups and environmental interest groups approved for purposes of planting and maintenance of vegetation within such areas that will afford food, cover and nesting areas for wildlife indigenous to the Wetlands Protected Area (WPA) except where such entry or activities are unsafe or may damage the property or security of adjacent developed areas. Any such vegetation shall be subject to removal at a later date, should such areas be required or involved in future development.
- (4) There shall be included in the statement of proposed construction methods and schedule required as part of the certification by TDC 71.040 of this chapter, a landscaping and re-vegetation plan and schedule, which shall set forth in reasonable detail the means by which the applicant(s) for any building permits, subdivision approvals or public works permits within the Wetlands Protection District (WPD) shall comply with the requirements of this section. [Ord. 800-90, 3/26/90]

**Applicant's Finding:** No degradation of vegetation in the WPA is proposed with this subdivision application and associated open space and future pedestrian path. Any vegetation removed to accommodate construction will be reseeded in the areas appropriate for final use of the site for a nature path. All landscaping and re-vegetation will be included with applications for permits for construction of the pedestrian path.

The requirements of this section have been satisfied.

#### **SECTION 71.065 USES**

Except as otherwise provided for, or permitted, by the provisions of this chapter, and subject to the provisions of the Resource Management Plan, no permanent use of the Wetlands Protected Area (WPA) will be allowed other than passive nature study, wildlife protection and enhancement, the north-south collector road (90th Avenue) and pedestrian bridge through the Zidell property (2S1--23/100), and other activities compatible with the intent, purposes and objectives of this chapter above set forth. The pedestrian bridge shall be located within 300 foot wide corridor west of the Pratt-Broome property (2S1--23/100).

Except as otherwise provided for, or permitted by the provisions of this chapter (and subject to the Resource Management Plan), no permanent use of the Sweek Pond Management Area (SPMA) will be allowed other than the following uses:\*\*\*

All uses in the WPA and SPMA will be subject to the following provisions:

- (1) Such permitted uses shall be in all cases and at all times remain subject to the provisions of TDC 71.090(2) and (3) of this chapter and to such other or further restrictions or conditions as may be, or become, reasonably necessary to afford to the owner(s) or to others entitled to possession or control of the area reasonable assurance that they will suffer or incur no loss, damage, expense or liability of any kind by reason of such uses or any activities undertaken in connection therewith.
- (2) No discharge of firearms, trapping, poisoning, or intentional destruction of wildlife shall be permitted in the Wetlands Protection District (WPD).
- (3) Annual monitoring of the number of plant and animal species and the number within each species occurring within the Wetlands Protection Area (WPA) and 40-foot setback within the Wetlands Fringe Area (WFA) may be undertaken by conservation groups under the supervision, or with the approval, of the Oregon Department of Fish and Wildlife.
- (4) Uses occurring within the Wetlands Fringe Area (WFA) shall be restricted to those uses allowed by the primary planning district classifications and standards.
- (5) Structures and other permanent improvements to land lying adjacent to the boundary of the Wetlands Protected Area (WPA) and Sweek Pond Management Area (SPMA) shall be located as far removed from such boundary as is consistent with the development objectives and plans of the owners or developers of such adjacent property, subject in all cases to the provisions of TDC 71.061 of this chapter.
- (6) Where upland development occurs and immediately adjacent to the Wetlands Protected Area (WPA) and the 40-foot set-back provided for by TDC 71.061, such development and usages associated therewith shall be effected in such a manner as to minimize to the greatest extent practicable, consistent with full development and usage of the Wetlands Fringe Area (WFA), disturbance of recognized valuable wildlife forms within the Wetlands Protected Area (WPA) by automobile, truck and pedestrian traffic, shipping and receiving activities, trash and refuse pickup or disposal activities, and outdoor production or manufacturing operations.



**Applicant's Finding:** The only conceptual improvement adjacent to the WPA is a future pedestrian path, a use compatible with the intent, purpose, and objectives of this chapter.

The requirements of this section have been satisfied.

#### **SECTION 71.066 EXCEPTIONS**

If degradation of the wildlife habitat within the Wetlands Protected Area (WPA) occurs despite protective work accomplished complying with an approved certification statement pursuant to TDC 71.040, and such degradation is caused by an overburdening by an Act of God of the protective methods so approved; then the owners, occupiers, or users of the land where said degradation originated shall not be liable for such adverse effects on the Wetland Protected Area (WPA). After an Act of God, said owner, occupiers, or users shall immediately take steps to conform to the provisions of this chapter. An Act of God, for the purposes of this section, shall be extreme climatic conditions which include, but are not limited to, a rain storm in excess of the 25-year frequency storm, extremely long periods of drought or freezing weather, or damage caused by wildfires or unusual insect infestations.

**Applicant's Finding:** The Applicant notes this exception.

The requirements of this section have been satisfied.

### **TDC CHAPTER 72: NATURAL RESOURCE PROTECTION OVERLAY DISTRICT (NRPO)**

#### **SECTION 72.011 CRITERIA FOR DETERMINING SIGNIFICANT NATURAL RESOURCES.**

- (1) The Significant Resource Criteria in Subsections (2-3) must be considered when determining whether a natural resource site is a Significant Natural Resource or is not significant.
- (2) Significant Resource Criteria — Wetlands Not in Riparian Corridors.
  - (a) Exclusions. Wetland natural resources are not significant if they fall within any one of the following categories:
    - (i) Wetlands artificially created entirely from upland that are:
      - (A) created for the purpose of controlling, storing or maintaining stormwater; or
      - (B) active surface mining or active log ponds; or
      - (C) ditches without a free and open connection to natural waters of the state (as defined in OAR 141-85-010(9)) and which do not contain food or game fish (as defined in ORS 496.009); or
      - (D) less than one acre in size and created unintentionally as the result of irrigation water overflow or construction activity not related to compensatory mitigation for permitted wetland impacts; or
      - (E) of any size and created for wastewater treatment, farm or stock watering, settling of sediment, cooling industrial water, or as a golf course hazard.
    - (ii) Wetlands or portions of wetlands that are contaminated by hazardous substances, materials or wastes as per the following conditions:
      - (A) The wetland is documented as contaminated on either the U.S. Environmental Protection Agency's (EPA) National Priority List, or the Department of Environmental Quality's (DEQ) Inventory of Hazardous Substance Sites (ORS 465.225).
      - (B) Only the portion of the wetland affected by such hazardous substances shall be excluded from significance analysis.



- (b) A Wetland natural resource is a Significant Natural Resource if it meets one or more of the following criteria:
  - (i) The site has a rating of "High" in at least one of the following environmental categories in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) Wetland and Natural Areas Inventory Environmental and Social Value Assessment:
    - (A) Fish Habitat Value. The assessment values use the low-medium-high rating for a site based on the modified fish habitat and wildlife habitat assessment methods used in the City of Tualatin Natural Resource Inventory. Fish habitat rates high if potential fish habitat exists.
    - (B) Wildlife Habitat Value. Evaluates habitat diversity. Areas with permanent or seasonal water, diverse vegetation and structure, and interspersed plant communities rate high. Wildlife habitat value also increases with the size of the site and linkage to open space habitat.
    - (C) Hydrologic Control, Water Quality Protection, and Water Quality Potential. Resource sites that provide or have the potential to provide water quality protection to receiving streams or storm-water detention within the watershed are important and are rated high.
  - (ii) The wetland or a portion of the wetland occurs within a horizontal distance of less than one-fourth mile from a water body listed by the Oregon Department of Environmental Quality (DEQ) as a water quality limited body [303(d) list] and the wetland's water quality protection or potential function is described as High or Medium in the Wetlands and Natural Areas Assessment.
  - (iii) The site has a presence of one or more rare or locally unique plant communities that are relatively undisturbed with few or no non-native plants.
  - (iv) The site has a presence of a plant or animal species that is state or federally listed as sensitive, rare, threatened or endangered, or is a critical habitat for such listed species, unless the appropriate state or federal agency indicates that the wetland is not important for the maintenance of the species.
- (3) Significant Resource Criteria — Streams, riparian corridors, forests, meadows and geologic features. A stream, riparian corridor, forest, meadow or geologic feature site is a significant resource site if it meets one or more of the following criteria:
  - (a) The site has a presence of a plant or animal species that is state or federally listed as sensitive, rare, threatened or endangered, or is a critical habitat for such listed species;
  - (b) The site has a presence of a physical feature that is designated as a scenic river or natural or geologic resource by county or regional government, or state or federal agencies. This includes but is not limited to designation as a significant natural resource or geologic area. Physical features do not include buildings or other constructed features.
  - (c) The site has a presence of one or more relatively undisturbed native plant communities with few or no non-native plants.
  - (d) The site has a rating of "High" in at least one of the following environmental categories in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) Wetland and Natural Areas Inventory Environmental and Social Value Assessment:
    - (i) Fish Habitat Value. The assessment values use the low-medium-high rating for a site based on the modified fish habitat and wildlife habitat assessment methods used in the City of Tualatin Natural Resource Inventory. Fish habitat rates high if potential fish habitat exists.

- (ii) **Wildlife Habitat Value.** Evaluates habitat diversity. Areas with permanent or seasonal water, diverse vegetation and structure, and interspersed plant communities rate high. Wildlife habitat value also increases with the size of the site and linkage to open space habitat.
- (iii) **Hydrologic Control, Water Quality Protection, and Water Quality Potential.** Resource sites that provide or have the potential to provide water quality protection to receiving streams or stormwater detention within the watershed are important and are rated high.
- (iv) **Ecological Integrity.** Sites are rated high if they provide ecosystem linkage or continuity, allow wildlife passage between larger habitat units or genetic flow between plant populations, provide critical habitat for certain life history stages of sensitive fish and wildlife species, or other watershed or ecosystem functions. This criterion regards both the ecological integrity and connectivity assessments of the site.
- (v) **Uniqueness.** Site contains fish and wildlife species, wildlife habitat, plant communities or geologic features that are unique in the Tualatin area. Uniqueness is a consideration of the quantity and quality of a particular resource site relative to other resources in the Tualatin area.
- (e) **A non-wetland site has a rating of "High" in at least two of the following social categories in the City of Tualatin Natural Resource Inventory (December, 1995) Wetland and Natural Areas Inventory Environmental and Social Value Assessment:**
  - (i) **Educational Value and Scientific Research.** Sites are rated high if they provide potential educational opportunities for local schools or parks and recreation programs or research opportunities for the scientific community. This value is dependent on access and distance from schools.
  - (ii) **Aesthetic or Scenic Qualities, or Visual or Noise Buffering Qualities.** Rating aesthetic or scenic quality is based on visual characteristics. Buffering qualities refer to the site's ability to serve as a buffer to unattractive or noisy areas such as the interstate freeways.
  - (iii) **Opportunity for Passive Recreation.** Rating for recreational opportunity is based on a combination of the availability of public access, environmental value, aesthetic and/or scenic value, and low probability for recreational uses that will adversely affect environmental, aesthetic or scenic values.
- (f) **Meets the definition of a riparian corridor in OAR-660-090-(5) and any other criteria in subsections (3)(a-e) and (3)(g).**
- (g) **In addition to (a)-(f) above, a final decision to determine whether a resource site is significant or not significant shall consider information about the resource site from all available sources, including but not limited to property owners and interested citizens, and may use factors not listed in criteria (a)-(f) above provided that it is shown the factor(s) address the issue of whether or not the site is significant.**

**Applicant's  
Finding:**

A portion of the project site has been identified in the *City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) Wetland and Natural Areas Inventory Environmental and Social Value Assessment* as the location of a portion of Wetland W9. The wetland located on site is a Significant Natural Resource as it has been categorized as "high" in Fish Habitat Value, Hydrologic Control, and Water Quality.

The Wetland has been determined to be Significant.

**SECTION 72.013 SIGNIFICANT NATURAL RESOURCES.**

The following natural resource sites identified in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) are Significant Natural Resources:

Unit #	Resource #	Assessors Map and Tax Lot		
S	F9	Interstate 5 Hwy ROW		
S2	F5	21E30A01300 21E30B00200	21E30A01600 21E30B00600	21E30A01700 21E30B00100

**Applicant's Finding:** The project site, tax lot 21E30B00600, has been identified as a natural resource site in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory.

The requirements of this section have been satisfied.

**SECTION 72.020 LOCATION OF GREENWAYS AND NATURAL AREAS.**

- (1) The designated significant natural resources are the Greenways and Natural Areas on Map 72-1, which shows the general location of the NRPO District. The general locations of Other [n] Natural Areas are shown on the Recreation Resources Map (Figure 3-4) of the Parks and Recreation Master Plan.
- (2) Lands in the Wetland Protection District (WPD) are subject to Chapter 71, and other applicable regulations, but not Chapter 72.

**Applicant's Finding:** The southern portion of the project site has been identified on *Map 72-1: Natural Resource Protection Overlay District (NRPO) and Greenway Locations* as the location of the Saum Creek Greenway, a greenway protected in the NRPO.

The requirements of this section have been satisfied.

**SECTION 72.030 GREENWAYS.**

- (1) Greenways can exhibit diverse characteristics. Those along the Tualatin River and Hedges, Nyberg and Saum Creeks can be natural in some sections and have pedestrian and bike paths in other sections. Greenways in built-up areas such as in subdivisions are typically landscaped with lawn and often include concrete pedestrian/bike paths.
- (2) Riverbank Greenway (NRPO-GR).
  - (a) Except as provided in Subsection (b), the NRPO District along the south bank of the Tualatin River, beginning at the City's western Urban Growth Boundary (UGB) and extending to the City's eastern UGB, and along the north bank of the Tualatin River from the northwest corner of Tax Lot 1007 to the southeast corner of Tax Lot 1006, Washington County Tax Map 2S1 24B, shall have a width as measured from a line 40 feet inland from the top of the bank extending to the middle of the river. The top of the bank shall be where the landform called "the bank" changes from a generally up-slope feature to a generally flat feature. The NRPO District shall

automatically apply to property annexed to the City, except as provided for in Appendix G to the Parks and Recreation Master Plan.

- (b) For the area 300 feet east and west of the I-5 right-of-way as shown on Map 72-1, the NRPO District on the south bank of the Tualatin River shall have a width as measured from a line 75 feet in-land from the top of the bank extending to the middle of the river.
- (3) Creek Greenways (NRPO-GC).
  - (a) Except as provided in Subsections (b-d), the NRPO-GC District shall have a width of 50 feet centered on the centerline of Hedges Creek from SW Ibach Street to the western boundary of the Wet-lands Protection District and from the eastern boundary of the Wetlands Protection District to the Tualatin River, and centered on Nyberg Creek from SW Tonka Street to the Tualatin River.
  - (b) The NRPO-GC District shall have a width of 30 feet centered on the centerline of Nyberg Creek from SW Boones Ferry Road to SW Tonka Street.
  - (c) Property owners on opposite sides of a creek may enter into a written agreement to allow the NRPO-GC District to be off-center, but in no case shall it be less than 15 feet on one side of the creek. Such agreement shall be binding on property owners, their heirs and assigns; shall be approved by City Council and shall be placed on permanent file with the City Recorder.
  - (d) The NRPO-GC District shall have a width of 50 feet extending out from the top of the stream bank or from the upland edge of wetlands within the stream riparian area on the following creek sections:
    - (i) Hedges Creek from SW 105th Avenue downstream to the private driveway culvert at the upper end of the fire pond at Tri-County Industrial Park,
    - (ii) Hedges Creek from the fire pond dam's outlet at Tri-County Industrial Park downstream to SW Tualatin-Sherwood Road, and
    - (iii) Saum Creek beginning east of I-5, just north of I-205 extending downstream to the Tualatin River, except:
      - (A) a width of 25 feet extending out from the upland edge of wet-lands in the stream riparian area for the severely constrained properties shown on Map 72-1, and
      - (B) to the upland edge of the wetland in the stream riparian area adjacent to existing developed residential properties west of Atfalati Park shown on Map 72-1.
- (4) Other Greenways (NRPO-OG). The greenways listed below are not within a riverbank or creek greenway. These areas are primarily drainage corridors for neighboring residential zones. The location and size of these greenways are shown on Map 72-1.
  - (a) Chieftain/Dakota Greenway,
  - (b) Indian Meadows Greenway,
  - (c) Hi-West Estates Greenway,
  - (d) Shaniko Greenway,
  - (e) Nyberg Creek Greenway (south)

**Applicant's Finding:** This site contains a portion of the area designated as the Saum Creek Greenway.

The requirements of this section have been satisfied.

#### SECTION 72.060 DEVELOPMENT RESTRICTIONS IN GREENWAYS AND NATURAL AREAS.

- (1) Except as provided in Subsection (2), no building, structure, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development shall occur within Riverbank, Creek and Other Greenways, and Wetland and Open Space Natural Areas.

- (2) The following uses, activities and types of development are permitted within Riverbank, Creek and Other Greenways, and Wetland and Open Space Natural Areas provided they are designed to minimize intrusion into riparian areas:
- (a) Public bicycle or pedestrian ways, subject to the provisions of TDC 72.070.
  - (b) Public streets, including bridges, when part of a City approved transportation plan, and public utility facilities, when part of a City approved plan and provided appropriate restoration is completed.
  - (c) Except in Wetland Natural Areas, private driveways and pedestrian ways when necessary to afford access between portions of private property that may be bisected by a Greenway or Open Space Natural Area.
  - (d) Except in Creek Greenways and Wetland Natural Areas, outdoor seating for a restaurant within the Central Urban Renewal District, but outside of any sensitive area or its vegetated corridor.
  - (e) Public parks and recreational facilities including, but not limited to, boat ramps, benches, interpretive stations, trash receptacles and directional signage, when part of a City-approved Greenway or Natural Area enhancement plan.
  - (f) Landscaping, when part of a landscape plan approved through the Architectural Review process. City initiated landscape projects are exempt from the Architectural Review process. Landscaping in Greenways and Natural Areas shall comply with the approved Plant List in the Parks and Recreation Master Plan. When appropriate, technical advice shall be obtained from the Oregon Department of Fish and Wildlife, U.S. Soil Conservation Service, or similar agency, to ensure the proposed landscaping will enhance the preservation of any existing fish or wildlife habitats in the vicinity.
  - (g) Wildlife protection and enhancement, including the removal of non-native vegetation and replacement with native plant species.
  - (h) Except in Wetland Natural Areas, public boating facilities, irrigation pumps, water-related and water-dependent uses including the removal of vegetation necessary for the development of water-related and water-dependent uses, and replacement of existing structures with structures in the same location that do not disturb additional riparian surface.
  - (i) In Wetland Natural Areas, perimeter mowing and other cutting necessary for hazard prevention.
- (3) The City may, through the subdivision, conditional use, architectural review, or other development approval process, attach appropriate conditions to approval of a development permit. Such conditions may include, but are not limited to:
- (a) Use of Greenways and Natural Areas for storm drainage purposes;
  - (b) Location of approved landscaping, pedestrian and bike access areas, and other non-building uses and activities in Greenways and Natural Areas;
  - (c) Setback of proposed buildings, parking lots, and loading areas away from the Greenway and Natural Area boundary.
- (4) Greenways and Natural Areas in which an access easement is owned by the City, but retained in private ownership, shall be maintained by the property owner in their natural state and may only be modified if a landscape and maintenance plan complies with the approved Plant List in the Parks and Recreation Master Plan, and has been approved through the Architectural Review process or by the Parks and Recreation Director when Architectural Review is not required.
- (5) The Parks and Recreation Director shall be included as a commentor when a development application proposes dedication of Greenway or Natural Area property to the City or when development is proposed on Greenway or Natural Areas property maintained by the Parks and Recreation Department.

**Applicant's Finding:** The Applicant is not proposing any buildings, structures, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development within the Greenway and Wetland.

In order to minimize intrusion into the riparian area, the proposed pathway will be constructed as detailed in Section 72.070, below.

The requirements of this section have been satisfied.

**SECTION 72.065 HARDSHIP CREATED, MAP ERROR, PROPERTY NOT BUILDABLE.**  
**[Details omitted for brevity]**

**Applicant's Finding:** The Applicant is not applying for any variances, therefore the standards of this section do not apply.

The requirements of this section have been satisfied.

**SECTION 72.070 GENERAL GUIDELINES FOR PEDESTRIAN AND BIKE PATHS IN GREENWAYS.**

To construct bike and pedestrian paths in greenways, the developer of the path shall adhere to the following guidelines, wherever practicable:

- (1) Incorporate trails into the surrounding topography.
- (2) Provide viewing opportunities for special vistas, wetlands, and unique natural features.
- (3) Protect existing vegetation to the greatest extent possible. In wooded areas meander paths through the woods to avoid significant trees. An arborist should be consulted to determine methods for minimizing impact of construction of paths near trees greater than 5 inch caliper as measured 4 feet above-grade.
- (4) Replant trees in the vicinity where they were removed. Use native species as outlined in the approved plant list incorporated in the Parks and Recreation Master Plan.
- (5) Minimize impact on wetland environments. Build paths above wetlands wherever possible. Use boardwalks, bridges or other elevated structures when passing through a wetland. Direct trails away from sensitive habitat areas such as nesting or breeding grounds.
- (6) Provide interpretive opportunities along the trail. Use interpretive signage and displays to describe plant and animal species, nesting areas, wildlife food sources, and geologic, cultural and historic features.
- (7) Provide amenities along the trail. Place benches, picnic tables, trash receptacles and interpretive signage where appropriate.
- (8) Where paths are placed in utility corridors, path design should be coordinated with the City's Engineering and Building Department and Operations Department to allow utility maintenance.
- (9) Mitigate surface water drainage near wetlands and streams. Where hard surface trails occur adjacent to wetlands or creeks, provide, when appropriate, an open water system through swales, trench percolation, or on-site detention ponds to prevent erosion and negative impacts.
- (10) Incorporate signage. Place properly scaled and sited regulatory and guide signs to instruct users on accessibility, local conditions, safety concerns and mileage information.

**Applicant's Finding:** The City's Parks and Transportation System plans indicate that an extension of the Saum Creek trail will ultimately be constructed adjacent to Saum Creek, along the Southern boundary of the property. The Applicant has created a tract on the preliminary plat which would provide a location and alignment for the extension of the trail and may

work with the City to construct the pathway. Discussions regarding the construction of the pathway will be ongoing during the construction planning process.

The requirements of this section have been satisfied.

**SECTION 72.080 SHIFT OF DENSITY FOR RESIDENTIAL DEVELOPMENT ADJACENT TO GREENWAYS OR NATURAL AREAS.**

- (1) A shift of density may be allowed in accordance with TDC 41.150 (RML District), 42.150 (RMH District), 43.180 (RH District) and 44.160 (RH/HR District).
- (2) Small lots may be allowed in subdivisions and partitions in accordance with TDC 40.055 (RL District).

**Applicant's Finding:** The Applicant has provided responses for Section 40.055 (RL District) as a part of this narrative. Sixteen (16) small lots are proposed in accordance with Section 40.055.

The requirements of this section have been satisfied.

**SECTION 72.100 PARKS SYSTEMS DEVELOPMENT CHARGE (SDC) CREDIT.**

Ordinance 833-91 establishes a System Development Charge for Parks in residential planning districts. The ordinance contains provisions for credits against the Parks SDC, subject to certain limitations and procedures. Credit may be received up to the full amount of the Parks SDC fee. Dedication of NRPO District Areas, Other Natural Areas or vegetated corridors located within or adjacent to the NRPO District listed in the SDC capital improvement list are eligible for a SDC credit. Dedication and improvement of bicycle and pedestrian paths may also be eligible for a SDC credit.

**Applicant's Finding:** The Applicant may seek Parks SDC credits if required to construct a portion of the proposed Saum Creek Greenway pedestrian path.

The requirements of this section have been satisfied.

**SECTION 72.110 EASEMENTS FOR PEDESTRIAN AND BICYCLE ACCESS.**

In any portion of the NRPO District, the City may, through the subdivision, partition, conditional use, architectural review, or other applicable development approval process, require that easements for pedestrian and bicycle access and maintenance uses be granted as a condition of approval when said easements are necessary to achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan, or Bikeways Plan.

**Applicant's Finding:** As the NRPO is within a designated tract, further easements are unnecessary to achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan and Bikeways Plan.

The requirements of this section have been satisfied.

**SECTION 72.120 WETLANDS PROTECTION DISTRICT.**

In cases where land within the NRPO District is also within the Wetlands Protection District, Chapter 71, any development permitted by TDC 72.060 shall be subject to the provisions of Chapter 71.



<b>Applicant's Finding:</b>	The requirements of Chapter 71 are discussed previously in this report.
	The requirements of this section have been satisfied.

## **TDC CHAPTER 73: COMMUNITY DESIGN STANDARDS**

### **SECTION 73.040 ARCHITECTURAL REVIEW PLAN APPROVAL REQUIRED.**

- (1) Except for an addition or alteration to an existing single-family dwelling when it results in less than a 35% expansion of the structure's existing footprint or less than a 35% alteration of an existing wall plane or only affects the wall plane of the side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling, as permitted by these standards, no new building, condominium, townhouse, single family dwelling, addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure's existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), manufactured dwelling park, small-lot subdivision, landscape improvement (excluding greenways, parks and other Parks and Recreation Department road side improvements), parking lot improvement or expansion, above ground public utility facility (sewer or water pump stations, pressure reading stations and water reservoir), electrical substation, above ground natural gas pumping station, installation of decorative lighting (e.g. neon), exterior painting, awnings, murals, wireless communication facility, attached wireless communication facility or exterior major remodeling shall occur until the architectural review plan required under TDC 31.071 has been reviewed and approved by the Community Development Director and City Engineer or their designees, or by the Architectural Review Board or City Council for conformity with applicable standards or criteria.
- (2) No new single-family dwelling or addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure's existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), as permitted by these standards, shall occur until the architectural review application under TDC 31.071(7) has been reviewed and approved by the Community Development Director or their designee for conformity with the applicable standards or criteria.

<b>Applicant's Finding:</b>	This section is not directly applicable to this application because it does not include plans for construction of a dwelling. This section will apply to request to construct homes on the lots to be created by this proposed subdivision
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The requirements of this section have been satisfied.

### **SECTION 73.400 ACCESS.**

- (1) The provision and maintenance of vehicular and pedestrian ingress and egress from private property to the public streets as stipulated in this Code are continuing requirements for the use of any structure or parcel of real property in the City of Tualatin. Access management and spacing standards are provided in this section of the TDC and TDC Chapter 75. No building or other permit shall be issued until scale plans are presented that show how the ingress and egress requirement is to be fulfilled. If the owner or occupant of a lot or building changes the use to which the lot or building is put, thereby increasing



ingress and egress requirements, it shall be unlawful and a violation of this code to begin or maintain such altered use until the required increase in ingress and egress is provided.

**Applicant's Finding:** The Applicant is proposing a shared access drive between Lot 1 and Lot 2, which will be located within a private easement.

The requirements of this section have been satisfied.

- (2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designated in this code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.**

**Applicant's Finding:** The Applicant is proposing a shared access drive between Lot 1 and Lot 2, which will be located within a private easement. The Applicant will provide a copy of any deed documents and shared access agreements for the proposed shared access drive prior to the recordation of the final plat.

The requirements of this section have been satisfied.

- (3) Joint and Cross Access.**

- (a) Adjacent commercial uses may be required to provide cross access drive and pedestrian access to allow circulation between sites.**

**Applicant's Finding:** The Applicant is not proposing commercial use as a part of this development.

The requirements of this section are not applicable.

- (b) A system of joint use driveways and cross access easements may be required and may incorporate the following:**
- (i) a continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.**
  - (ii) a design speed of 10 mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;**
  - (iii) stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive;**
  - (iv) a unified access and circulation system plan for coordinated or shared parking areas.**

**Applicant's Finding:** The proposed shared access drive will be for the sole purpose of providing residential access to Lot 1 and Lot 2, therefore a system of joint use driveways and cross access easements is not applicable.

The requirements of this section are not applicable.

- (c) Pursuant to this section, property owners may be required to:
- (i) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;
  - (ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
  - (iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners;
  - (iv) If (i-iii) above involve access to the state highway system or county road system, ODOT or the county shall be contacted and shall approve changes to (i-iii) above prior to any changes.

**Applicant's Finding:** The proposed shared access drive will be located entirely within a private easement with a joint maintenance agreement between Lot 1 and Lot 2. The proposed access drive will not provide access to any additional properties.

The proposed access drive does not involve access to the state highway system or county road system, therefore subsection (iv) is not applicable.

The requirements of this section have been satisfied.

**(4) Requirements for Development on Less than the Entire Site.**

- (a) To promote unified access and circulation systems, lots and parcels under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as one unit in relation to the access standards. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area shall comply with the access requirements.
- (b) All access must be internalized using the shared circulation system of the principal commercial development or retail center. Driveways should be designed to avoid queuing across surrounding parking and driving aisles.

**Applicant's Finding:** The Applicant is proposing development on the entire site.

The standards of this section are not applicable.

**(5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Engineer.**

**Applicant's Finding:** Lot 1 and Lot 2 will have frontage on SW Borland Road, a minor arterial. Motor vehicle access will be provided via a shared access drive located off of SW 61<sup>st</sup> Terrace, a proposed local road.

The requirements of this section have been satisfied.

- (6) Except as provided in TDC 53.100, all ingress and egress shall connect directly with public streets. [Ord. 882-92, § 24,12/14/92]

**Applicant's Finding:** The proposed shared access drive will connect directly to SW 61<sup>st</sup> Terrace, a public street.

The requirements of this section have been satisfied.

- (7) Vehicular access for residential uses shall be brought to within 50 feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.

**Applicant's Finding:** The proposed shared access drive will provide for access within 50 feet of the ground floor entrance of the proposed dwelling units, which will be confirmed at the time of building permit submittal.

The requirements of this section have been satisfied.

- (8) To afford safe pedestrian access and egress for properties within the City, a sidewalk shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design and in a manner approved by the City Engineer. Sidewalks approved by the City Engineer may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.

**Applicant's Finding:** The proposed development will provide sidewalks along all street frontages, as shown on the attached Site Plan (Sheet C200). All proposed sidewalks will be constructed to City Standards.

The requirements of this section have been satisfied.

- (9) The standards set forth in this Code are minimum standards for access and egress, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

**Applicant's Finding:** The Applicant understands and acknowledges that the standards in this code are minimum standards for access and egress and they may be increased through the Architectural Review process.

The requirements of this section have been satisfied.

- (10) Minimum access requirements for residential uses:

- (a) Ingress and egress for single-family residential uses, including townhouses, shall be paved to a minimum width of 10 feet. Maximum driveway widths shall not exceed 26 feet for one and

two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths shall be measured at the property line.

**Applicant's Finding:** The ingress and egress for the proposed development will meet these standards at the time of building permit submittal.

The requirements of this section have been satisfied.

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**(16) Vision Clearance Area.**

- (a) **Local Streets** - A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 10 feet from the intersection point of the right-of-way lines, as measured along such lines (see Figure 73-2 for illustration).
- (b) **Collector Streets** - A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area shall be 10 feet (see Figure 73-2 for illustration).
- (c) **Vertical Height Restriction** - Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction shall be permitted between 30 inches and 8 feet above the established height of the curb in the clear vision area (see Figure 73-2 for illustration).

**Applicant's Finding:** The Applicant has illustrated the required vision clearance area triangle for each proposed intersection on the submitted plans and Figure 1 and Figure 2 submitted under Appendix F. All required vision clearance areas will be maintained.

The requirements of this section have been satisfied.

**(17) Major driveways, as defined in 31.060, in new residential and mixed-use areas are required to connect with existing or planned streets except where prevented by topography, rail lines, freeways, pre-existing development or leases, easements or covenants, or other barriers.**

**Applicant's Finding:** The Applicant is not proposing major driveways as a part of this development.

The requirements of this section are not applicable.

## **TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS**

### **IMPROVEMENTS**

## **SECTION 74.110 PHASING OF IMPROVEMENTS.**

### **SECTION 74.120 PUBLIC IMPROVEMENTS.**

- (1)** Except as specially provided, all public improvements shall be installed at the expense of the applicant. All public improvements installed by the applicant shall be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. No work shall be undertaken on any public improvement until after the construction plans have been approved by the City Engineer and a Public Works Permit issued and the required fees paid.
- (2)** In accordance with the Tualatin Basin Program for fish and wildlife habitat the City intends to minimize or eliminate the negative affects of public streets by modifying right-of-way widths and street improvements when appropriate. The City Engineer is authorized to modify right-of-way widths and street improvements to address the negative affects on fish and wildlife habitat.

**Applicant's Finding:** A conceptual land use plan set has been submitted to show the proposed public water, sanitary sewer, and storm drainage facilities meeting City requirements to serve the proposed development.

The requirements of this section have been satisfied.

### **SECTION 74.130 PRIVATE IMPROVEMENTS.**

All private improvements shall be in-stalled at the expense of the applicant. The property owner shall retain maintenance responsibilities over all private improvements.

**Applicant's Finding:** The Applicant is not proposing any private improvements as a part of this subdivision application.

The requirements of this section have been satisfied.

### **Section 74.140 Construction Timing.**

- (1)** All the public improvements required under this chapter shall be completed and accepted by the City prior to the issuance of a Certificate of Occupancy; or, for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.
- (2)** All private improvements required under this chapter shall be approved by the City prior to the issuance of a Certificate of Occupancy; or for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

**Applicant's Finding:** The Applicant acknowledges the procedural guidance of this section.

The requirements of this section have been satisfied.

## **RIGHT-OF-WAY**

### **SECTION 74.210 MINIMUM STREET RIGHT-OF-WAY WIDTHS.**

The width of streets in feet shall not be less than the width required to accommodate a street improvement needed to mitigate the impact of a proposed development. In cases where a street is required to be improved according to the standards of the TDC, the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G.

- (1) For subdivision and partition applications, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G shall be shown on the final subdivision or partition plat prior to approval of the plat by the City. This right-of-way dedication shall be for the full width of the property abutting the roadway and, if required by the City Engineer, additional dedications shall be provided for slope and utility easements if deemed necessary.
- (2) For development applications other than subdivisions and partitions, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width, the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G of the Tualatin Community Plan shall be dedicated to the City for use by the public prior to issuance of any building permit for the proposed development. This right-of-way dedication shall be for the full width of the property abutting the roadway and, if required by the City Engineer, additional dedications shall be provided for slope and utility easements if deemed necessary.
- (3) For development applications that will impact existing streets not adjacent to the applicant's property, and to construct necessary street improvements to mitigate those impacts would require additional right-of-way, the applicant shall be responsible for obtaining the necessary right-of-way from the property owner. A right-of-way dedication deed form shall be obtained from the City Engineer and upon completion returned to the City Engineer for acceptance by the City. On subdivision and partition plats the right-of-way dedication shall be accepted by the City prior to acceptance of the final plat by the City. On other development applications the right-of-way dedication shall be accepted by the City prior to issuance of building permits. The City may elect to exercise eminent domain and condemn necessary off-site right-of-way at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.
- (4) If the City Engineer deems that it is impractical to acquire the additional right-of-way as required in subsections (1)-(3) of this section from both sides of the center-line in equal amounts, the City Engineer may require that the right-of-way be dedicated in a manner that would result in unequal dedication from each side of the road. This requirement will also apply to slope and utility easements as discussed in TDC 74.320 and 74.330. The City Engineer's recommendation shall be presented to the City Council in the preliminary plat approval for subdivisions and partitions, and in the recommended decision on all other development applications, prior to finalization of the right-of-way dedication requirements.
- (5) Whenever a proposed development is bisected by an existing or future road or street that is of inadequate right-of-way width according to TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G, additional right-of-way shall be dedicated from both sides or from one side only as determined by the City Engineer to bring the road right-of-way in compliance with this section.
- (6) When a proposed development is adjacent to or bisected by a street proposed in TDC Chapter 11, Transportation Plan (Figure 11-3) and no street right-of-way exists at the time the development is proposed, the entire right-of-way as shown in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G shall be dedicated by the applicant. The dedication of right-of-way required in this subsection shall be along the route of the road as determined by the City.

**Applicant's Finding:** The 2013 Tualatin Transportation System Plan designates SW Sagert Street as a "Minor Arterial" west SW 65th Avenue and as a "Minor Collector" where it extends through the property. According to the TSP Figure 2 and Table 3, the preferred width for a Collector Street is a 76-foot wide right-of-way.

The existing ROW of Sagert Street between SW 65<sup>th</sup> Avenue and SW Wampanoag Drive is 78 feet in width. As shown on the submitted plans, proposed improvements between SW 65<sup>th</sup> Avenue and Wampanog Drive include widening the center turn lane to 12 feet, providing a 12 foot travel lanes in each direction, a 5 foot bike lane on the south side and a 4.9 foot wide bike lane on the north side, a 5.5 foot sidewalk on both sides of the street, 3.5 feet of landscaping on the south side and 17.5 feet of landscaping on the north side.

The Tualatin TSP designates the necessity to extend Sagert Street through the proposed development from SW 65<sup>th</sup> Avenue to the Sequoia Ridge subdivision to the east.

As shown on the submitted plans, the roadway improvements for SW Sagert Street between SW 65<sup>th</sup> Avenue and the proposed SW 63<sup>rd</sup> Terrace include a 12 foot center turn lane, 12 foot travel lanes in either direction, 6 foot bike lanes in either direction, 6 foot planter strip and 5 foot sidewalks in either direction. Right-of-way width varies due to existing development constraints north of the proposed development from 70.5 feet to 75 feet.

The submitted plans show a modified arterial section for SW Sagert Street between SW 63<sup>rd</sup> Avenue and the Sequoia Ridge including 32 feet of paved width, 6 foot planter strip and 5 foot sidewalks in either direction. The modified arterial section is designed to transition SW Sagert Street to the residential uses found within the proposed development and within Sequoia Ridge to the east. The right-of-way width is 54 feet.

The Tualatin TSP designates SW 65<sup>th</sup> Avenue as a Major Arterial. The City has expressed a preferred right-of-way width of 74 feet.

The submitted plans show a 29 foot ROW dedication along 65<sup>th</sup>, for a total half-street width of 47 feet. Proposed improvements include construction of a 12 foot center turn lane, as well as improving the east side of the street by widening the travel lane to 12 feet, constructing a 6 foot bike lane, a 7 foot planter strip, a 12 foot sidewalk and a 6 foot shoulder.

The Tualatin TSP designates SW Borland Street as a Major Arterial. The City has expressed a preferred right-of-way width of 74 feet.

The submitted plans show a 24 foot right-of-way dedication along Borland, for a total half-street width of 40.9 feet. Proposed improvements include widening the center turn lane to 11.7 feet, as well as improving the south side of the street by maintaining a 10 foot travel lane, constructing a 4.2 foot bike lane, 5 foot planter strip, 5 foot sidewalk and 14.7 foot landscaping area.

New public streets within the development will have a 50-foot right-of-way with 32 feet of improvements from curb to curb. A 5 foot sidewalk and a 4 foot wide planter strip will be provided from the edge of the curb.

The requirements of this section have been satisfied.

## EASEMENTS AND TRACTS

### SECTION 74.310 GREENWAY, NATURAL AREA, BIKE, AND PEDESTRIAN PATH DEDICATIONS AND EASEMENTS.

- (1) Areas dedicated to the City for Greenway or Natural Area purposes or easements or dedications for bike and pedestrian facilities during the development application process shall be surveyed, staked and marked with a City approved boundary marker prior to acceptance by the City.
- (2) For subdivision and partition applications, the Greenway, Natural Area, bike, and pedestrian path dedication and easement areas shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or
- (3) For all other development applications, Greenway, Natural Area, bike, and pedestrian path dedications and easements shall be submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the dedication or easement by the City.

**Applicant's Finding:** The areas proposed as dedication to the City for Greenway or Natural Area purposes have been surveyed, and will be staked and marked with a City approved boundary marker, per the requirements of subsection (1).

The areas proposed as dedication to the City for Greenway, Natural Area, bike and pedestrian path dedication and easement areas have been shown to be dedicated to the City on the final subdivision plat, per the requirements of subsection (2).

The requirements of this section have been satisfied.

### SECTION 74.320 SLOPE EASEMENTS.

- (1) The applicant shall obtain and convey to the City any slope easements determined by the City Engineer to be necessary adjacent to the proposed development site to support the street improvements in the public right-of-way or accessway or utility improvements required to be constructed by the applicant.
- (2) For subdivision and partition applications, the slope easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or
- (3) For all other development applications, a slope easement dedication shall be submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the easement by the City.

**Applicant's Finding:** The requirements of this section are not applicable as the site's topography and relationship to the abutting streets does not warrant slope easements for the proposed improvements.

The requirements of this section have been satisfied.

### SECTION 74.330 UTILITY EASEMENTS.

- (1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities shall be granted to the City.
- (2) For subdivision and partition applications, the on-site public utility easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; and



- (3) For subdivision and partition applications which require off-site public utility easements to serve the proposed development, a utility easement shall be granted to the City prior to approval of the final plat by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.
- (4) For development applications other than subdivisions and partitions, and for both on-site and off-site easement areas, a utility easement shall be granted to the City; building permits shall not be issued for the development prior to acceptance of the easement by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.
- (5) The width of the public utility easement shall meet the requirements of the Public Works Construction Code. All subdivisions and partitions shall have a 6-foot public utility easement adjacent to the street and a 5-foot public utility easement adjacent to all side and rear lot lines.

**Applicant's Finding:** A public utility easement (PUE) is indicated on the submitted plat along the frontage of each lot. A utility easement is shown between lots 69 and 70 to provide access to an existing sanitary manhole. In addition, an access and utility easement is shown over lots 2 and 3 to provide access and utility service for lots 1 and 2. All easements will meet city dimensional requirements and be shown on the final recorded plat.

The requirements of this section have been satisfied.

#### **SECTION 74.340 WATERCOURSE EASEMENTS.**

- (1) Where a proposed development site is traversed by or adjacent to a watercourse, drainage way, channel or stream, the applicant shall provide a storm water easement, drainage right-of-way, or other means of preservation approved by the City Engineer, conforming substantially with the lines of the watercourse. The City Engineer shall determine the width of the easement, or other means of preservation, required to accommodate all the requirements of the Surface Water Management Ordinance, existing and future storm drainage needs and access for operation and maintenance.
- (2) For subdivision and partition applications, any watercourse easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or
- (3) For all other development applications, any watercourse easement shall be executed on a dedication form submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the easement by the City.
- (4) The storm water easement shall be sized to accommodate the existing water course and all future improvements in the drainage basin. There may be additional requirements as set forth in TDC Chapter 72, Greenway and Riverbank Protection District, and the Surface Water Management Ordinance. Water quality facilities may require additional easements as described in the Surface Water Management Ordinance.

**Applicant's Finding:** Tracts are provided which contain a portion of Saum Creek, as well as the associated buffer area and future pedestrian path. Easements are not necessary as the tracts provide the necessary protection and preservation of the watercourse.

The requirements of this section have been satisfied.

#### SECTION 74.350 TRACTS.

A dedicated tract or easement will be required when access to public improvements for operation and maintenance is required, as determined by the City Engineer. Access for maintenance vehicles shall be constructed of an all-weather driving surface capable of carrying a 50,000-pound vehicle. The width of the tract or easement shall be 15-feet in order to accommodate City maintenance vehicles. In subdivisions and partitions, the tract shall be dedicated to the City on the final plat. In any other development, an access easement shall be granted to the City and recorded prior to issuance of a building permit.

**Applicant's Finding:** A proposed Water Quality Tract is located adjacent to SW 65<sup>th</sup> Avenue, in the southwest corner of the Subject Property. Because it can be accessed directly from multiple public streets, no special easement is required to allow access for operation and maintenance.

The requirements of this section have been satisfied.

#### TRANSPORTATION

##### SECTION 74.410 FUTURE STREET EXTENSIONS.

- (1) Streets shall be extended to the proposed development site boundary where necessary to:
- (a) give access to, or permit future development of adjoining land;
  - (b) provide additional access for emergency vehicles;
  - (c) provide for additional direct and convenient pedestrian, bicycle and vehicle circulation;
  - (d) eliminate the use of cul-de-sacs except where topography, barriers such as railroads or freeways, existing development, or environmental constraints such as major streams and rivers prevent street extension.
  - (e) eliminate circuitous routes. The resulting dead end streets may be approved without a turnaround. A reserve strip may be required to preserve the objectives of future street extensions.

**Applicant's Finding:** The Applicant proposes an east-west extension of SW Sagert Street that will extend between SW 65<sup>th</sup> Avenue and the Sequoia Ridge neighborhood to the east to provide connectivity. The Applicant also proposes the creation of a new north-south connection that will extend onto Borland Road to provide additional connectivity.

A traffic study is included with this application detailing the proposed street extensions.

The requirements of this section have been satisfied.

- (2) Proposed streets shall comply with the general location, orientation and spacing identified in the Functional Classification Plan (Figure 11-1), Local Streets Plan (TDC 11.630 and Figure 11-3) and the Street Design Standards (Figures 74-2A through 74-2G).
- (a) Streets and major driveways, as defined in TDC 31.060, proposed as part of new residential or mixed residential/commercial developments shall comply with the following standards:
    - (i) full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers;
    - (ii) bicycle and pedestrian accessway easements where full street connections are not possible, with spacing of no more than 330 feet, except where prevented by barriers;

- (iii) limiting cul-de-sacs and other closed-end street systems to situations where barriers prevent full street extensions; and
- (iv) allowing cul-de-sacs and closed-end streets to be no longer than 200 feet or with more than 25 dwelling units, except for streets stubbed to future developable areas.

**Applicant's Finding:** The proposed streets all comply with the general location, orientation and spacing identified in the Functional Classification Plan, Local Streets Plan and Street Design Standards.

The requirements of this section have been satisfied.

#### **SECTION 74.420 STREET IMPROVEMENTS.**

When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under TDC 74.220, the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan (TDC Chapter 11), TDC 74.425 (Street Design Standards), and the City's Public Works Construction Code, subject to the following provisions:

- (1) For any development proposed within the City, roadway facilities within the right-of-way described in TDC 74.210 shall be improved to standards as set out in the Public Works Construction Code.
- (2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.
- (3) The required improvements may include the construction or rebuilding of off-site improvements which are identified to mitigate the impact of the development.
- (4) Where development abuts an existing street, the improvement required shall apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Engineer to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement shall connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.
- (5) If additional improvements are required as part of the Access Management Plan of the City, TDC Chapter 75, the improvements shall be required in the same manner as the half-street improvement requirements.
- (6) All required street improvements shall include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.
- (7) For subdivision and partition applications, the street improvements required by TDC Chapter 74 shall be completed and accepted by the City prior to signing the final subdivision or partition plat, or prior to releasing the security provided by the applicant to assure completion of such improvements or as otherwise specified in the development application approval.
- (8) For development applications other than subdivisions and partitions, all street improvements required by this section shall be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.
- (9) In addition to land adjacent to an existing or proposed street, the requirements of this section shall apply to land separated from such a street only by a railroad right-of-way.

- (10) Streets within, or partially within, a proposed development site shall be graded for the entire right-of-way width and constructed and surfaced in accordance with the Public Works Construction Code.
- (11) Existing streets which abut the pro-posed development site shall be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).
- (12) Sidewalks with appropriate buffering shall be constructed along both sides of each internal street and at a minimum along the development side of each external street in accordance with the Public Works Construction Code.
- (13) The applicant shall comply with the requirements of the Oregon Department of Transportation (ODOT), Tri-Met, Washington County and Clackamas County when a proposed development site is adjacent to a roadway under any of their jurisdictions, in addition to the requirements of this chapter.
- (14) The applicant shall construct any required street improvements adjacent to parcels excluded from development, as set forth in TDC 74.220 of this chapter.
- (15) Except as provided in TDC 74.430, whenever an applicant proposes to develop land with frontage on certain arterial streets and, due to the access management provisions of TDC Chapter 75, is not allowed direct access onto the arterial, but instead must take access from another existing or future public street thereby providing an alternate to direct arterial access, the applicant shall be required to construct and place at a minimum street signage, a sidewalk, street trees and street lights along that portion of the arterial street adjacent to the applicant's property. The three certain arterial streets are S.W. Tualatin-Sherwood Road, S.W. Pacific Highway (99W) and S.W. 124th Avenue. In addition, the applicant may be required to construct and place on the arterial at the intersection of the arterial and an existing or future public non-arterial street warranted traffic control devices (in accordance with the Manual on Uniform Traffic Control Devices, latest edition), pavement markings, street tapers and turning lanes, in accordance with the Public Works Construction Code.
- (16) The City Engineer may determine that, although concurrent construction and placement of the improvements in (14) and (15) of this section, either individually or collectively, are impractical at the time of development, the improvements will be necessary at some future date. In such a case, the applicant shall sign a written agreement guaranteeing future performance by the applicant and any successors in interest of the property being developed. The agreement shall be subject to the City's approval.
- (17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.
- (18) Pursuant to requirements for off-site improvements as conditions of development approval in TDC 73.055(2)(e) and TDC 36.160(8), proposed multi-family residential, commercial, or institutional uses that are adjacent to a major transit stop will be required to comply with the City's Mid-Block Crossing Policy.

**Applicant's Finding:** The Applicant's submitted plans show public street, storm drainage and sidewalk improvements in the SW 65<sup>th</sup> Avenue right-of-way, in compliance with these requirements.

SW Sagert Street will be fully constructed to meet applicable City street standards, extending east from the existing intersection and terminated at the existing stub that connects with SW Sequoia Drive.

SW Borland Road will be constructed in accordance with city standards.

All street improvements are detailed in the plan sheets submitted with this subdivision

application.

The requirements of this section have been satisfied.

#### **SECTION 74.425 STREET DESIGN STANDARDS.**

- (1) Street design standards are based on the functional and operational characteristics of streets such as travel volume, capacity, operating speed, and safety. They are necessary to ensure that the system of streets, as it develops, will be capable of safely and efficiently serving the traveling public while also accommodating the orderly development of adjacent lands.
- (2) The proposed street design standards are shown in Figures 72A through 72G. The typical roadway cross sections comprise the following elements: right-of-way, number of travel lanes, bicycle and pedestrian facilities, and other amenities such as landscape strips. These figures are intended for planning purposes for new road construction, as well as for those locations where it is physically and economically feasible to improve existing streets.
- (3) In accordance with the Tualatin Basin Program for fish and wildlife habitat it is the intent of Figures 74-2A through 74-2G to allow for modifications to the standards when deemed appropriate by the City Engineer to address fish and wildlife habitat.
- (4) All streets shall be designed and constructed according to the preferred standard. The City Engineer may reduce the requirements of the preferred standard based on specific site conditions, but in no event will the requirement be less than the minimum standard. The City Engineer shall take into consideration the following factors when deciding whether the site conditions warrant a reduction of the preferred standard:
  - (a) Arterials:
    - (i) Whether adequate right-of-way exists
    - (ii) Impacts to properties adjacent to right-of-way
    - (iii) Current and future vehicle traffic at the location
    - (iv) Amount of heavy vehicles (buses and trucks).
  - (b) Collectors:
    - (i) Whether adequate right-of-way exists
    - (ii) Impacts to properties adjacent to right-of-way
    - (iii) Amount of heavy vehicles (buses and trucks)
    - (iv) Proximity to property zoned manufacturing or industrial.
  - (c) Local Streets:
    - (i) Local streets proposed within areas which have environmental constraints and/or sensitive areas and will not have direct residential access may utilize the minimum design standard. When the minimum design standard is allowed, the City Engineer may determine that no parking signs are required on one or both sides of the street.

**Applicant's Finding:** All street construction is proposed according to the street design standards for the functional classification of the street. Right-of-way dedication and construction of improvements is proposed per the required standards.

The requirements of this section have been satisfied.

#### **SECTION 74.430 STREETS, MODIFICATIONS OF REQUIREMENTS IN CASES OF UNUSUAL CONDITIONS.**

- (1) When, in the opinion of the City Engineer, the construction of street improvements in accordance with TDC 74.420 would result in the creation of a hazard, or would be impractical, or would be

detrimental to the City, the City Engineer may modify the scope of the required improvement to eliminate such hazardous, impractical, or detrimental results. Examples of conditions requiring modifications to improvement requirements include but are not limited to horizontal alignment, vertical alignment, significant stands of trees, fish and wildlife habitat areas, the amount of traffic generated by the proposed development, timing of the development or other conditions creating hazards for pedestrian, bicycle or motor vehicle traffic. The City Engineer may determine that, although an improvement may be impractical at the time of development, it will be necessary at some future date. In such cases, a written agreement guaranteeing future performance by the applicant in installing the required improvements must be signed by the applicant and approved by the City.

- (2) When the City Engineer determines that modification of the street improvement requirements in TDC 74.420 is warranted pursuant to subsection (1) of this section, the City Engineer shall prepare written findings of modification. The City Engineer shall forward a copy of said findings and description of modification to the applicant, or his authorized agent, as part of the Utility Facilities Review for the proposed development, as provided by TDC 31.072. The decision of the City Engineer may be appealed to the City Council in accordance with TDC 31.076 and 31.077.
- (3) To accommodate bicyclists on streets prior to those streets being upgraded to the full standards, an interim standard may be implemented by the City. These interim standards include reduction in motor vehicle lane width to 10 feet [the minimum specified in AASHTO's A Policy on Geo-metric Design of Highways and Streets (1990)], a reduction of bike lane width to 4-feet (as measured from the longitudinal gutter joint to the centerline of the bike lane stripe), and a paint-striped separation 2 to 4 feet wide in lieu of a center turn lane. Where available roadway width does not provide for these minimums, the roadway can be signed for shared use by bicycle and motor vehicle travel. When width constraints occur at an intersection, bike lanes should terminate 50 feet from the intersection with appropriate signing.

**Applicant's Finding:** The Applicant has submitted a design modification request to Clackamas County regarding the proposed access of a local street on SW Borland Road, an arterial. The Applicant has also submitted a design modification request to Clackamas County regarding the sidewalk at the intersection of SW Sagert Street and SW 65<sup>th</sup> Avenue. The proposed modifications have been submitted under Appendix F of this land use application.

The requirements of this section have been satisfied.

#### **SECTION 74.440 STREETS, TRAFFIC STUDY REQUIRED.**

- (1) The City Engineer may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City Engineer determines that such a study is necessary in connection with a proposed development project in order to:
  - (a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or
  - (b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.
- (2) The required traffic study shall be completed prior to the approval of the development application.
- (3) The traffic study shall include, at a minimum:

- (a) an analysis of the existing situation, including the level of service on adjacent and impacted facilities.
- (b) an analysis of any existing safety deficiencies.
- (c) proposed trip generation and distribution for the proposed development.
- (d) projected levels of service on adjacent and impacted facilities.
- (e) recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered.
- (f) The City Engineer will determine which facilities are impacted and need to be included in the study.
- (g) The study shall be conducted by a registered engineer.
- (4) The applicant shall implement all or a portion of the improvements called for in the traffic study as determined by the City Engineer.

**Applicant's Finding:** A traffic study conducted by Kittleson and Associates, Inc. has been provided as a part of this Subdivision Application, per the requirements of this section.

The requirements of this section have been satisfied.

#### **SECTION 74.450 BIKEWAYS AND PEDESTRIAN PATHS.**

- (1) Where proposed development abuts or contains an existing or proposed bikeway, pedestrian path, or multi-use path, as set forth in TDC Chapter 11, Transportation Figure 11-4, the City may require that a bikeway, pedestrian path, or multi-use path be constructed, and an easement or dedication provided to the City.
- (2) Where required, bikeways and pedestrian paths shall be provided as follows:
  - (a) Bike and pedestrian paths shall be constructed and surfaced in accordance with the Public Works Construction Code.
  - (b) The applicant shall install the striping and signing of the bike lanes and shared roadway facilities, where designated.

**Applicant's Finding:** The site includes a tract which will be created to contain a public pathway along the Saum Creek Greenway. The Applicant will work with the City to provide a tract to contain the proposed pedestrian pathway. The Applicant may also work with the City regarding the construction of the proposed pathway, subject to the availability of credits for System Development Charges.

The requirements of this section have been satisfied.

#### **SECTION 74.460 ACCESSWAYS IN RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SUBDIVISIONS AND PARTITIONS.**

- (1) Accessways shall be constructed by the applicant, dedicated to the City on the final residential, commercial or industrial subdivision or partition plat, and accepted by the City.
- (2) Accessways shall be located between the proposed subdivision or partition and all of the following locations that apply:
  - (a) adjoining publicly-owned land intended for public use, including schools and parks. Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;



- (b) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;
  - (c) adjoining undeveloped residential, commercial or industrial properties;
  - (d) adjoining developed sites where an accessway is planned or provided.
- [additional subsections (3) through (13) omitted for brevity]

**Applicant's Finding:** Tract D is shown in the location that the access is provided for the residents of the subdivision and the public to access the future public path along Saum Creek. Accessways have been planned for and will be located according to the standards of this section. The Applicant intends to work with the City regarding the construction of the trail through the construction documentation process.

The requirements of this section have been satisfied.

#### **SECTION 74.470 STREET LIGHTS.**

- (1) Street light poles and luminaries shall be installed in accordance with the Public Works Construction Code.
- (2) The applicant shall submit a street lighting plan for all interior and exterior streets on the proposed development site prior to issuance of a Public Works Permit.

**Applicant's Finding:** The Applicant recognizes that street lighting is an essential component of the streetscape and will comply with the applicable Public Works standards.

The requirements of this section have been satisfied.

#### **SECTION 74.475 STREET NAMES.**

- (1) No street name shall be used which will duplicate or be confused with the names of existing streets in the Counties of Washington or Clackamas, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.
- (2) The City Engineer shall maintain the approved list of street names from which the applicant may choose. Prior to the creation of any street, the street name shall be approved by the City Engineer.

**Applicant's Finding:** Proposed street names, as shown on the plat, will not duplicate or be confused with the names of existing streets, except for the extension of existing streets. The street names and numbers conform to the established pattern in the surrounding area.

The requirements of this section have been satisfied.

#### **SECTION 74.480 STREET SIGNS.**

- (1) Street name signs shall be installed at all street intersections in accordance with standards adopted by the City.
- (2) Stop signs and other traffic control signs (speed limit, dead-end, etc.) may be required by the City.
- (3) Prior to approval of the final subdivision or partition plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street signs, traffic control signs and street name signs. The location, placement, and cost of the signs shall be determined by the City.



**Applicant's Finding:** The Applicant has provided a street tree planting plan along with the proposed development plans. The Applicant will provide appropriate funds for street signs in accordance with this Section.

The requirements of this section have been satisfied.

#### **SECTION 74.485 STREET TREES.**

- (1) Prior to approval of a residential subdivision or partition final plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street trees. The location, placement, and cost of the trees shall be determined by the City. This sum shall be calculated on the interior and exterior streets as indicated on the final subdivision or partition plat.**
- (2) In nonresidential subdivisions and partitions street trees shall be planted by the owners of the individual lots as development occurs.**
- (3) The Street Tree Ordinance specifies the species of tree which is to be planted and the spacing between trees.**

**Applicant's Finding:** The Applicant has provided a street tree planting plan along with the proposed development plans. The Applicant will provide appropriate funds for street trees in accordance with this Section.

The requirements of this section have been satisfied.

#### **UTILITIES**

##### **SECTION 74.610 WATER SERVICE.**

- (1) Water lines shall be installed to serve each property in accordance with the Public Works Construction Code. Water line construction plans shall be submitted to the City Engineer for review and approval prior to construction.**
- (2) If there are undeveloped properties adjacent to the subject site, public water lines shall be extended by the applicant to the common boundary line of these properties. The lines shall be sized to provide service to future development, in accordance with the City's Water System Master Plan, TDC Chapter 12.**
- (3) As set forth is TDC Chapter 12, Water Service, the City has three water service levels. All development applicants shall be required to connect the proposed development site to the service level in which the development site is located. If the development site is located on a boundary line between two service levels the applicant shall be required to connect to the service level with the higher reservoir elevation. The applicant may also be required to install or provide pressure reducing valves to supply appropriate water pressure to the properties in the proposed development site.**

**Applicant's Finding:** The Applicant has submitted a Sanitary Sewer and Water Plan (Sheet Set C400-C404) showing how water lines will be installed to serve the proposed lots. Detailed plans will be submitted for review and approval prior to construction, in accordance with subsection (1). Water service connections will be made as directed by the City Engineer, in accordance with subsection (3). Extension of the water service to undeveloped properties is not proposed, per subsection (2).

The requirements of this section have been satisfied.

**SECTION 74.620 SANITARY SEWER SERVICE.**

- (1)** Sanitary sewer lines shall be installed to serve each property in accordance with the Public Works Construction Code. Sanitary sewer construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.
- (2)** If there are undeveloped properties adjacent to the proposed development site which can be served by the gravity sewer system on the proposed development site, the applicant shall extend public sanitary sewer lines to the common boundary line with these properties. The lines shall be sized to convey flows to include all future development from all up stream areas that can be expected to drain through the lines on the site, in accordance with the City's Sanitary Sewer System Master Plan, TDC Chapter 13.

**Applicant's Finding:** The applicant has submitted a Sanitary Sewer and Water Plan (Sheet Set C400-C404) showing how sanitary sewer lines will be installed to serve the proposed lots. Detailed plans will be submitted for review and approval prior to construction, in accordance with subsection (1). Extension of the sanitary sewer service to undeveloped properties is not proposed, per subsection (2).

The requirements of this section have been satisfied.

**SECTION 74.630 STORM DRAINAGE SYSTEM.**

- (1)** Storm drainage lines shall be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.
- (2)** The storm drainage calculations shall confirm that adequate capacity exists to serve the site. The discharge from the development shall be analyzed in accordance with the City's Storm and Surface Water Regulations.
- (3)** If there are undeveloped properties adjacent to the proposed development site which can be served by the storm drainage system on the proposed development site, the applicant shall extend storm drainage lines to the common boundary line with these properties. The lines shall be sized to convey expected flows to include all future development from all up stream areas that will drain through the lines on the site, in accordance with the Tualatin Drainage Plan in TDC Chapter 14.

**Applicant's Finding:** The Applicant has submitted a Street and Storm Plan (Sheet Set C210-C214) showing how storm drainage lines and a storm water management facility will be installed to serve the proposed lots. Detailed plans will be submitted for review and approval prior to construction, in accordance with subsection (1).

The Applicant has provided a detailed stormwater management report (see Appendix D) detailing the preliminary design for the system which will serve this site in accordance with subsection (2). The stormwater management plan and report has been designed to meet the requirements of this section.

Extension of the storm sewer system is not proposed, per subsection (3).

The requirements of this section have been satisfied.

#### **SECTION 74.640 GRADING.**

- (1) Development sites shall be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.**
- (2) A development applicant shall submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Engineer may require the applicant to remove all excess material from the development site.**

**Applicant's Finding:** The Applicant has prepared a site plan which illustrates the extent of the proposed development over the site. The proposed footprint of the development has been minimized to the greatest extent possible to provide access and utility services to the proposed lots and to avoid disturbances to natural topography and vegetation in accordance with subsection (1).

The Applicant has submitted a Grading and Erosion Control Plan (Sheet Set C115-119 and Sheet Set C120-C124) showing the proposed grading which will be primarily limited to street construction and the water quality facility. Grading on individual lots will be minimal. Drainage for new structures will be routed to the street with connections to the storm drainage system.

The requirements of this section have been satisfied.

#### **SECTION 74.650 WATER QUALITY, STORM WATER DETENTION AND EROSION CONTROL.**

**The applicant shall comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:**

- (1) On subdivision and partition development applications, prior to approval of the final plat, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from Clean Water Services; or**
- (2) On all other development applications, prior to issuance of any building permit, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.**
- (3) For on-site private and regional non-residential public facilities, the applicant shall submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant shall submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site shall occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.**

**Applicant's Finding:** The Applicant has provided a Storm Drainage Report to demonstrate the feasibility of constructing a storm water quality treatment and detention pond within the Water Quality Tract, as indicated in the submitted plans.

The requirements of this section have been satisfied.

**SECTION 74.660 UNDERGROUND.**

- (1)** All utility lines including, but not limited to, those required for gas, electric, communication, lighting and cable television services and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets may be placed above ground. Temporary utility service facilities, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with all utility companies to provide the underground services. The City reserves the right to approve the location of all surface-mounted transformers.
- (2)** Any existing overhead utilities may not be upgraded to serve any proposed development. If existing overhead utilities are not adequate to serve the proposed development, the applicant shall, at their own expense, provide an underground system. The applicant shall be responsible for obtaining any off-site deeds and/or easements necessary to provide utility service to this site; the deeds and/or easements shall be submitted to the City Engineer for acceptance by the City prior to issuance of the Public Works Permit.

**Applicant's Finding:** The Applicant acknowledges and will comply with the underground requirements of the Development Code and Public Works Code in constructing improvements for the proposed subdivision.

The requirements of this section have been satisfied.

**SECTION 74.670 EXISTING STRUCTURES.**

- (1)** Any existing structures requested to be retained by the applicant on a proposed development site shall be connected to all available City utilities at the expense of the applicant.
- (2)** The applicant shall convert any existing overhead utilities serving existing structures to underground utilities, at the expense of the applicant.
- (3)** The applicant shall be responsible for continuing all required street improvements adjacent to the existing structure, within the boundaries of the proposed development site.

**Applicant's Finding:** The Applicant is not proposing to retain any existing structures currently located on the site, therefore the standards of this section do not apply.

The requirements of this section have been satisfied.

**SECTION 74.700 REMOVAL, DESTRUCTION OR INJURY OF TREES.**

It is unlawful for a person, without a written permit from the Operations Director, to remove, destroy, break or injure a tree, plant or shrub, that is planted or growing in or upon a public right-of-way within the City, or cause, authorize, or procure a person to do so, authorize or procure a person to injure, misuse or remove a device set for the protection of any tree, in or upon a public right-of-way.

**Applicant's Finding:** The Applicant will obtain any necessary Tree Removal Permits per City requirements and provide fees to the City for planting of street trees pursuant to Section 74.485

The requirements of this section have been satisfied.

**SECTION 74.705 STREET TREE REMOVAL PERMIT.**

**SECTION 74.706 STREET TREE FEES.**

**SECTION 74.707 STREET TREE VOLUNTARY PLANTING.**

**SECTION 74.708 STREET TREE EMERGENCIES.**

**SECTION 74.710 OPEN GROUND.**

**SECTION 74.715 ATTACHMENTS TO TREES.**

**SECTION 74.720 PROTECTION OF TREES DURING CONSTRUCTION.**

**Applicant's** The Applicant is not proposing to remove any existing street trees.

**Finding:** The requirements of this section have been satisfied.

**SECTION 74.725 PROTECTION OF TREES DURING CONSTRUCTION.**

Trees, shrubs or plants standing in or upon a public right-of-way, on public or private grounds that have branches projecting into the public street or sidewalk shall be kept trimmed by the owner of the property adjacent to or in front of where such trees, shrubs or plants are growing so that:

- (1) The lowest branches are not less than 12 feet above the surface of the street, and are not be less than 14 feet above the surface of streets designated as state highways.
- (2) The lowest branches are not less than eight feet above the surface of a sidewalk or footpath.
- (3) No plant, tree, bush or shrub shall be more than 24 inches in height in the triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, such an area defined by a line across the corner between the points on the street right-of-way line measured 10 feet back from the corner, and extending the line to the street curbs or, if there are no curbs, then to that portion of the street or alley used for vehicular traffic.
- (4) Newly planted trees may remain untrimmed if they do not interfere with street traffic or persons using the sidewalk or obstruct the light of a street electric lamp.
- (5) Maintenance responsibilities of the property owner include repair and upkeep of the sidewalk in accordance with the City Sidewalk Maintenance Ordinance.

**SECTION 74.730 NOTICE OF VIOLATION.**

**SECTION 74.735 TRIMMING BY CITY.**

**SECTION 74.740 PROHIBITED TREES**

**SECTION 74.745 CUTTING AND PLANTING SPECIFICATIONS.**

**SECTION 74.750 REMOVAL OR TREATMENT BY CITY.**

**SECTION 74.755 APPEAL OF PERMIT DENIAL.**

**SECTION 74.760 PENALTIES.**

**[DETAILED PROVISIONS OMITTED FOR BREVITY]**

**Applicant's** The above provisions will apply to ongoing care and maintenance of street trees

**Finding:** following final plat recording and planting of street trees by the City of Tualatin.

The requirements of this section have been satisfied.

## **SUMMARY AND CONCLUSION**

Based on the above findings and the submitted plans and documentation, the Applicant has demonstrated compliance with the requirements of the relevant sections of the Tualatin Development Code. Therefore, the Applicant requests approval of this application of a 79-lot single-family residential subdivision on a 20.9 acre site in the RL zone.